Demarcating Disobedience

There is a long and distinguished tradition, in political philosophy, of arguing that violations of the law undertaken for political purposes – henceforth, "disobedience" – have a special status, at least in (broadly) liberal democratic societies. According to an influential line of argument, individuals have a right to such action, grounded in considerations of their liberty of conscience or right to freedom (Dworkin 1978; Thoreau 2001; Brownlee 2012), or their right to political participation (Raz 1979; Lefkowitz 2007), among others. The special status or cachet of disobedience arguably provides a defeasible justification for treating disobedients differently – typically more sympathetically – especially in courts, where they face punishment for their violations of the law (Dworkin 1978; 1985; Scheuerman 2018). This generates an anxiety that "ordinary" or "mere" criminals – whose actions are not politically informed or engaged – can help themselves to these defenses and the differential treatment they support, or, more generally, that the arguments endorse criminality (Souza dos Santos 2024; Lim 2026). In light of this, the pressure arises to differentiate disobedients from criminals. According to an influential view, disobedients must carry out their acts civilly, publicly, non-evasively, non-violently, or be prepared to accept punishment (Bedau 1961; Rawls 1999), among others. In so doing, they communicate to their audience – beyond mere words, which are cheap to issue – that their actions are motivated by their conscientious convictions or their considered judgments about the injustice against which they protest. These requirements provide the assurance that we would not be strung along, so long as the actors pass the tests which check for their conscientious convictions or considered judgments, and have borne the costs involved in passing those tests. Moreover, they narrow the range of acts which we are asked to assess differently – our sympathy need not be unbounded.

While the arguments about the justifiability of disobedience have had little popular uptake, the opposite is true of the differentiation demand. In practice, disobedients face immense pressure to differentiate themselves from criminals. In many cases, the stringent requirements constituting the differentiation demand are invoked to "prove" that disobedients are actually (or no better than) criminals, and thus to discredit their actions and messages. In response, some philosophers relax the differentiation demand in various ways – making it easier for disobedients to satisfy it (Cohen 1970; Greenawalt 1989; Smart 1991; Brownlee 2012; Milligan 2013; Celikates 2016; Scheuerman 2018; Moraro 2019; Lai 2019; 2021; Lim 2021). However, many of them are committed to – or at least leave intact – the view that differentiation is secured on the basis of whether acts of disobedience succeed at indicating that the disobedients have the required convictions or judgments. For ease of reference, call this view, "individualism".

Individualism is beset with serious problems. A contextualist view – which attends to the relationship between acts of disobedience and collective action – avoids these problems, and moreover clarifies our understanding of disobedience. Or so I will argue.

Several preliminary remarks are in order. First, I set aside justifications of disobedience that center on their functional aspects. These include arguments that disobedience can inhibit and correct injustice (Rawls 1999), protect or enhance legitimacy (Habermas 1985), contribute to democracy (Arendt 1969; Markovitz 2005; Smith 2013; Celikates 2016; Laugier 2019), satisfy our duty to confront injustice (Lyons 2013; Delmas 2018), or even eliminate or ameliorate injustice (Havercroft 2021; Lim 2023; Pasternak 2025), among others. Second, individualism rarely stands alone. Instead, it is often incorporated – along with some of the aforementioned functional arguments – into broader views about the justifiability of disobedience. My rejection of individualism should, thus, be seen as

a rejection of its incorporation into these broader views. Third, and while political disobedience and resistance are contiguous (Pineda 2020), I focus on disobedience rather than resistance. The differentiation demand appears to be inapplicable in the context of resistance, since many of its forms are legal. Even if it is applicable, it is less pressing than that concerning disobedience. Finally, I focus on how disobedience is to be demarcated, rather than whether it is justified.

Individualism

Individualism requires individual political disobedients to behave in ways that communicate their conscientious convictions or principled judgments. Here, I set aside a general worry that such a demand involves a high-minded moralism about what counts as resistance or disobedience – excluding by definitional fiat forms of action that are oriented towards the satisfaction or sustenance of basic and material needs (Scott 1985). It is open for individualism to adopt a capacious conception of what qualifies as the relevant convictions or judgments – bringing into the fold actions that are undergirded by concerns about needs. I proceed, in this section, with the assumption that there is at least *prima facie* plausibility to individualism's requirement. Even so, difficulties arise as to how the requirement plays out in deeply non-ideal societies like ours.

I begin with the platitude that the determination of whether an action is regarded as communicative of convictions, relies on the social meanings that are operative in the context within which the action takes place. In brief, the meanings of ideas, objects, or actions are not simply (nor necessarily) determined by an individual actor's beliefs or intentions, but by the way those ideas, objects or actions are understood collectively or socially. To use a mundane example, the act of wearing shoes indoors might be regarded as a norm or as disrespectful, depending on the context. Social meanings are part of the way through which we interpret information; they guide our interactions with each other and the world (Walker 2007; Calhoun 2016; Haslanger 2014a; 2014b; 2018). In the context of actions, the assessment of social meanings is specific – dependent on "*who* does *what*, and *when*" – rather than general, depending only on the *type* of action performed.

Attending to the social meanings of individuals' actions reveals two problems. First, in some circumstances – especially when injustice is pervasive and socially entrenched – the social meanings of the actions of individuals belonging to marginalized segments of society, might diverge sharply from those actions undertaken by members of the majority. For example, the actions of Black people are regularly imputed with – and moreover understood as communicative of – criminal intent, whereas the very same actions of white people are not. This is the phenomenon referred to by popular terms such as "driving while Black" or "walking while Black" – innocuous actions are regarded and treated as criminal or potentially criminal by white audiences (Bierria 2022). This phenomenon is connected to broader and systematic misrepresentations of Black people in popular culture (Davis 1997; Collins 2000; Hooks 2014). In the context of political disobedience, we see that the protests or political actions of Black or minority dissidents are more regularly depicted as disorderly, threatening or criminal, compared to the same actions of white dissidents (Reid and Craig 2021; Gause et al. 2023). The imputation of such intent *precludes* those acts from being regarded as communicative of the individual's convictions or judgments, and thus precludes them from being treated as disobedients rather than criminals. In light of these systematically biased social meanings, Black political disobedients are likely to find that they have few – if any – options to communicate their convictions. Their audience may simply fail to regard their acts of disobedience as communicative of convictions, or even as communicative to begin with. Indeed, even acts of political disobedience that we now regard as paradigmatically communicative of such convictions – such as the sit-ins or marches during

the Civil Rights era, among others – were initially treated as merely criminal or undergirded by criminal intent (Barkan 1984; McAdam 1999; Hall 2005; Pineda 2021).

Second, in societies that are (or are becoming) intolerant of political resistance, dissidents in general might find that there are few – if any – law-breaking options that they can take which are regarded as communicative of their convictions, rather than as merely criminal. For instance, state prosecutors regularly interpret and frame acts of political disobedience as merely criminal. In doing so, they "depoliticize" the acts – preventing them from being regarded as communicative of conscientious convictions or principled judgments (El-Enany 2015; Terwindt 2020). Such constriction can also occur through distortions in how the activism and protests of successful social movements are remembered. For instance, prevailing understandings of the civil rights movement obscure its radical and progressive aspects. In doing so, they delegitimize such forms of political action, resulting in their being treated as unacceptable options for dissidents (Pineda 2021). This is a problem that affects all political disobedients, rather than merely those belonging to certain identity groups.

Taken together, we see that the requirement that disobedients communicate their convictions and judgments can be systematically violated by some members of society, through no fault of their own. Individualism is unable to help – and potentially entrenches the misfortune of – the people for whom it is crucial not to be regarded as criminals. Moreover, it cannot plausibly or justifiably request that disobedients first fix these problems with the non-ideal world, before embarking on disobedience. However, it appears possible to revise individualism – equipping it with tools to mitigate or eliminate the problem of biased social meanings.

One option is for individualism to treat the identities of the relevant actors as irrelevant to whether an act communicates their convictions and judgments. Instead of attending to "*who* does *what* and *when*", we simply look at "*what* is done and *when*". This proposal appears to address the root of the aforementioned problems – it forces us to treat the same actions similarly, disregarding or bypassing the biases or prejudices that distort the social meanings of actions undertaken by some members of society. However, it neglects the fact that many actions depend, for their success, on the identity of the actor involved. For instance, two people cannot be married by just about any person; they must be married by someone who possesses the right kind of institutional authority – whether civil or religious. Or more clearly, the rights and entitlements enjoyed by an individual can only be forfeited by themselves, rather than by someone else – even if the exact same words were uttered by the both of them. Further examples abound. Restricting the scope of this revision to acts of law-violation does not eliminate the implausibility. We intuitively think that there are important differences between the act of killing a slave owner, when committed by his slave or when committed by a burglar. While the former could be an act of political disobedience, the latter clearly is not. Moreover, restricting the scope in such ways raises the specter of arbitrariness – some explanation is needed for why only this domain of our actions, rather than others, requires us to ignore the actors' identities.

Drawing inspiration from John Rawls's veil of ignorance, a modest proposal consists in excluding some morally or politically "irrelevant" identity traits, such as those pertaining to race, gender, or sex, among others. This view appears to avoid the problems with the earlier proposal. For instance, it delivers the right verdict that there are important differences between the attacks of a slave or burglar – the traits involved are not irrelevant, and are thus included in our judgments of the two actions. More generally, it appears to secure consistency among our assessments of the disobedience of people from majority or minority identity groups. For instance, the disobedience of white and Black dissidents should be treated similarly, since racial identity is an irrelevant trait and is excluded. We should not regard the actions of white disobedients as communicative of their convictions, while regarding those of Black disobedients as indicative of criminal intent.

However, this proposal still can deliver implausible verdicts. Consider, for instance, the social meaning of a white person sitting at a lunch counter reserved for white people, during the era of segregation. They are institutionally entitled to be served, and have institutionally supported expectations that they will be served. Their act, then, is not one of disobedience. In contrast, the social meaning of a Black person who engages in exactly the same action, is starkly different – it plausibly is an act of disobedience. The proposal – which urges us to treat racial identity as irrelevant for the purposes of determining whether an individual act is communicative of convictions – appears unable to account for these differences. It loses sight of what is salient in the cases at hand. The general lesson here is that whether an identity trait is relevant or irrelevant for assessing what action has been performed, depends on the specific context under consideration – sometimes they are relevant, other times they are not. The attempt to excise them, in principle, from the determination of the social meanings of individual actions, is bound to fail for reasons similar to those of the radical proposal.

The proposal to enact differentiation at the level of *actors* rather than individual *acts* also does not fully address these problems. In an earlier article – and working within the individualist framework – I argue that the differentiation of political disobedients from criminals can be secured by a holistic assessment of the totality of acts committed by the relevant actors. Political disobedients can succeed in communicating that they possess and are acting upon conscientious convictions or considered judgments, if a sufficient subset of their actions are regarded as communicative of such convictions (Lim 2021). This proposal appears to avoid the aforementioned problems – even if the law-breaking acts of some people (or law-breaking in general) are never regarded as disobedience, dissidents who engage in such acts can nonetheless differentiate themselves from criminals if they have done enough – such as through legal acts of resistance – to communicate that they possess the relevant convictions and judgments. However, this proposal assumes that people from severely marginalized segments of society can succeed communicatively, so long as those acts are legal. The earlier discussions of "driving while Black" or "walking while Black" – each of which refer to legal actions – suggest that this assumption is overly sanguine. Additionally, this proposal falters in circumstances where law-breaking actions are so regarded as so abhorrent or despicable that they are treated as incompatible with – and thus as constituting a radical break from – the conscientious convictions or considered judgments that might have been communicated by the political disobedients' previous actions. The proposed holistic assessment is undermined because these law-breaking acts simply are not regarded as part of disobedients' overall projects. In such circumstances, the disobedient is likely to be treated as undifferentiated from criminals.

I leave open the possibility that individualism can be developed to overcome these difficulties. However, they provide sufficient motivation to pursue an alternative strategy that does not rely on the indicated or imputed mental states of disobedients, to determine whether their actions are disobedient or criminal.

Contextualism

The core idea of contextualism is that the demarcation of disobedience rests on the relationship between an act and collective action, rather than between an act and the individual's mental states. Specifically, and on my view, *an act of law-violation is one of political disobedience if a collective claims it as an act that contributes to its goal of enacting social change, and if the law-violator assents to such a claim*.

Even at this level of generality, two payoffs are apparent. First, contextualism avoids the aforementioned problems with individualism. Actions that are judged to be criminal because of the identity of the actors, are now clearly understandable as acts of disobedience when they stand in the right relationship to a collective. The same applies to acts of law-violation undertaken by dissidents in intolerant societies. Contextualism secures these results by sidestepping complications about whether individual actors succeed at communicating their convictions and judgments. The distorted social meanings that can attach to their actions are mitigated or tempered in light of the connection of their actions to collective action.

Second, contextualism foregrounds the fact that acts of disobedience are rarely undertaken in isolation, but are paradigmatically part of a collective effort (Arendt 1969). It avoids reducing the political character of resistance to the convictions or judgments of individual actors – a move that individualism implicitly makes. Specifically, contextualism highlights that a single act of law-violation, is not an act of *political* disobedience. This is true even if the individual in concern has a full-fledged political theory upon which their convictions are grounded, and on the basis of which they engage in their actions. Without connections to a collective that strives towards enacting social change, the action of such an individual simply does not amount to political disobedience. Relatedly, contextualism accounts for the changing status of acts of law-violation. This is clearest in cases where acts that are hitherto regarded as merely criminal, come to be claimed by a collective as contributing to its goal of enacting social change. Consider, for instance, the refusal to comply with racial segregation laws on public transportation – which were treated as mere criminal transgressions until they were incorporated into a broader movement of disobedience and resistance (Lovell 2003). Individualism struggles to account for such changes, especially in circumstances where the convictions or judgments of the individuals involved remain constant across time.

Several aspects of the view now require elaboration. First, a collective paradigmatically has several key features. The individuals that make up a collective share a common goal. They each intend to promote the shared goal, and moreover to do their part in contributing to the promotion of that goal (Bratman 1999; List and Pettit 2011). Highly structured political organizations – such as political parties – clearly possess these features. However, informal or loosely structured groups of people – such as a group of beach-goers working together to save someone from drowning, or a group of residents petitioning the local council to put up traffic signs on the streets – can also possess these features. That this is so, reveals that the relevant collective need not be permanent – it can be transient, and moreover constituted in order to undertake a very specific action, or bring about a highly localized change (Young 1994).The relevant collective also need not be the biggest or most prominent within a society, nor does it need to constitute or be part of a broader social movement. Requiring otherwise – and focusing on only big, permanent, and formally organized collectives – would implausibly result in the exclusion of many paradigmatic acts of disobedience. Importantly, it would exclude acts undertaken by collectives that are marginalized by others, or which are unable to form highly structured groups, because of the oppressive circumstances they find themselves in (Scott 1985).

Second, the goal of the collective is stated generally, in terms of enacting social change. Juxtaposing it to a nearby view clarifies the point. Suppose we specify the goal of the collective in terms of opposing justice. This view is intuitively appealing. It reflects the fact that collectives typically attempt to enact social change in response to something they deem unjust. It also re-frames the disruptive character of disobedience – it does not simply oppose any exercise of power, but only those exercises which are unjust. This is, in effect, a moralized demarcation of disobedience. An immediate worry about such moralization is that it would be unable to recognize acts that are undertaken as part of a goal to enact *unjust* social changes, as acts of political disobedience. Just as we might think that an account of disobedience is useless if it "declares only that people are right to disobey laws or

decisions that are wicked or stupid" (Dworkin 1985, 106), so we might think that it is useless if it declares that acts count as disobedience only if they are taken in response to injustice.

Beyond this worry, further difficulties arise as to how we should specify the relevant notion of justice (or injustice), such that the view delivers plausible verdicts in a broad range of cases. The attempt to do so, however, runs into serious difficulties. Suppose we refer to prevailing conceptions of justice operative within the society in which the act is undertaken. This restricts the view to describing acts as disobedience only in cases where such acts respond to deviations from, or violations of, prevailing conceptions of justice (Lim and Brownlee 2026). In cases where the prevailing conceptions of justice are the site of contestation, the view is unable to treat dissenters who act on the basis of novel conceptions of justice as being engaged in disobedience (Lim 2024). Additionally, this view is unable to deliver the right verdicts in cases where the state of affairs being targeted does not rise to the level of injustice (as specified by the prevailing conceptions of justice). Consider, for instance, activists who violate laws to protest the mistreatment of animals, in societies where the prevailing conceptions of justice do not regard the treatment of animals as an issue of justice. Or consider residents who violate laws to protest a property developer from building a shopping mall in their neighborhood (instead of a theater). Further examples abound. The reference to prevailing conceptions of justice is implausible in such cases. Alternatively, suppose that we refer to some "objective" conception of injustice, where the relevant sense of objectivity is specified in terms of contextual invariance or consensus. This view is likewise unable to account for disobedience in circumstances where the target of social change is not unjust (as with the earlier example of the neighborhood park), or when the justice of some state of affairs is indeterminate or subject to reasonable disagreement. We sidestep these difficulties by stating the goal of the collective generally, rather than specifically.

Third, the collective in concern must regard the act of law-violation as one that contributes to its goal of enacting social change. Again, considering this alongside a nearby view clarifies the point. Suppose that an act of law-violation is one of disobedience once it makes an actual contribution to a collective's goal of enacting social change – that is, disregarding how the collective regards it. This view is intuitively appealing. It allows us to describe acts as disobedience which are not claimed – or indeed even spurned – by existing collectives. Consider the example of a lone actor who assassinates the chief executive of an insurance company, in response to the latter's (perceived unjust) actions. Suppose that this act is rejected by every existing collective – as being too radical or reckless, among other things. The specification in concern would allow us to describe such an act as disobedience, based on the claim that it actually contributes to some collective's (or collectives') goal of enacting social change. The payoff appears to be augmented once we recognize that existing collectives might be influenced by the unjust circumstances in which they operate – especially in terms of harboring prejudices against certain actors or actions, and also in terms of how they evaluate different strategic and moral considerations – such that they mistakenly fail to claim the act as one that contributes to their goal of enacting social change. Moreover, the payoff appears to generalize – the same can now be said of many other "extreme" acts that are rejected by existing collectives, but which actually contribute (in some way or another) to their goals. This payoff is brought to the fore when we consider that such acts might generate positive radical flank effects for existing collectives, in terms of making the latter's (comparatively less radical) views appear more appealing to the general public (Haines 2022).

Several considerations render this specification less attractive. A single act is unlikely to be sufficient, on its own, to generate a significant radical flank effect – especially one that can shift public perceptions of existing collectives. If it does have such effects, it might be due to the act being "used" in some ways by existing collectives – such as the latter's explicit framing of that act as the unfortunate but inevitable consequence of ignoring their moderate methods. In which case, the act is

implicitly and indirectly claimed by the collectives as contributing to their goals. But most importantly, the specification in concern is implausibly over-inclusive. It considers the act committed by the aforementioned burglar as one of disobedience, simply because that act actually contributes to some collective's goal of enacting social change – in this case, of eliminating the targeted slave owner's unjust actions. The attempt to avoid this problem by restricting the scope to only those acts which "cause" social change, would end up being under-inclusive – excluding many acts which contribute to a collective's goal, but which cannot be said to cause the occurrence of the goal. It is better, then, to refer to what a collective claims as contributing to its goal, as a way of demarcating disobedience. Different collectives will, of course, have and apply different standards to determine whether some act contributes to their goal – they can be as exacting or as ecumenical as they wish. Nonetheless, they generally have good reason to be relatively ecumenical, for the goal of enacting social change typically requires on an accumulation of the effects of disobedience, each of which neither directly nor immediately contributes to bringing about the desired change.

Fourth, the actor must assent to the claim of the collective, that their action contributes to their goal of enacting social change. This is a requirement of phenomenological fidelity – that a conception of disobedience should be faithful, or at least be in some ways connected to, the self-understanding of those who violate the law (Cohen 2004; Delmas 2018). This requirement introduces a serious restriction in the set of acts that are disobedient. Consider, for instance, people who engage in illegal squatting while they get back on their feet, or who steal time off work to attend a concert or sports games. Suppose that a collective claims these acts as contributing to their goal of enacting anti-capitalist social change, and describes these people as therefore engaged in anti-capitalist disobedience. This requirement blocks their claim, in circumstances where the law-violators reject the claim. Two concerns – one descriptive, another normative – undergird the requirement. One is that even though we never have complete control over the social meanings of our actions – and thus how they are to be described or demarcated – it would be implausible to posit that we never have any such control at all. The other is that constraining our characterization of disobedience in this manner, is a way of respecting – rather than riding roughshod over – the agency of the actors involved. The requirement, however, does not ask that we look to the mental states of the law-violators. Otherwise, we risk running straight back to the aforementioned difficulties with individualism. All that is needed is their practical assent, which can be explicitly expressed or else inferred from lack of dissent.

Clarifications

Addressing several worries about contextualism helps us to clarify the view and its commitments.

First, we might worry that contextualism's avoidance of the problems of individualism is merely apparent. For might not a deeply unjust and prejudiced society regard a particular collective, *as a whole*, as being engaged in criminal activities? The problem of distorted social meanings rears its head – in this case, affecting the entire collective rather than individuals. It does not take much imagination to see how this could be so. We need simply to look at the many activist collectives – especially those which pursue radical goals or which pursue reasonable goals through radical means – that have been described as terrorist organizations by various governments or public officials.

My response is that the problem of distorted social meanings – assuming it applies in both cases – takes different forms in the contexts of individual or collective action. In the former, the problem is that an individual's act is imputed with criminal intent, which has the effect of precluding it from being regarded as communicative of the individual's conscientious convictions or considered judgments. The distortion occurs because the assessment of whether an act is disobedience depends

on the convictions of the individual, and those convictions (if present) are displaced by the imputation of criminal intent. An actor who sets out to undertake disobedience finds that their act is regarded as criminal, due to the distorting effects of bias. The situation is different in the context of collective action. Suppose that criminal intent is imputed to both the collective as a whole and to each of its individual members. However, recall that according to contextualism, the demarcation of disobedience – and thus the differentiation of disobedients from mere criminals – does not rest upon the existence of the individuals' conscientious convictions or considered judgments. What is crucial is for the act to be claimed by a collective as contributing to is goal of enacting social change. The imputation of criminal intent – even if successful, and even if widely believed by the audience of those acts – does not lead contextualism to deliver the verdict that those acts are therefore criminal rather than disobedience. There is a fact of the matter about whether a collective regards an act as contributing to its goal of enacting social change, disregarding the character of the intentions of the collective as a whole or of its individual members. On a concessionary note – and on the assumption that the critic rejects contextualism's insistence on the point – it is much more difficult to regard a collective as a whole as merely criminal rather than attempting to enact social change, as compared to doing the same for individuals. The increased difficulty corresponds to the extent to which referring to collective action, rather than individual action, guards against distortion. In this regard, contextualism still fares better than individualism.

Second, we might worry that contextualism is, in some circumstances, unable to deliver a clear verdict about whether an act is one of disobedience. The connections between acts and collective goals are clear only in cases where the collectives in concern have orchestrated the acts, or explicitly endorsed those acts prior to, or at the point of, their enactment. Yet it is sometimes unclear or even indeterminate whether a given collective claims an act as one that contributes to its goal of social change. For instance, the collective might not have made any endorsements (or any statements at all) about the act of resistance. Or, in circumstances where an individual is among the first to undertake an act of putative disobedience, the relevant collective might not even have been formed.

My response is to bite the bullet – it is a feature, and not a bug, of contextualism that the status of some acts of law-violation is indeterminate. Such a verdict is simply the result of taking seriously the relationship between individual act and collective action, for determining whether the former is disobedience. The indeterminacy is not the result of a theory that is unable to carve nature at its joints. Instead, it is the result of the fact that social and political categories – of which disobedience is one – are often messy and have indeterminate boundaries. It is a mistake, in this case, to seek sharper boundaries than what the world is able to offer. We should not let our discomfort with such ambiguity push us towards individualism and its attendant problems.

Third, and most importantly, we might worry that contextualism provides an unpalatable rehabilitation of the status of some abhorrent actions. For instance, it says of the illegal terror that collectives like the Ku Klux Klan unleashed on Black Americans, or the illegal exploitation and abuse of vulnerable people by organized gangs, that they are acts of political disobedience, insofar as the acts are claimed by the collective as contributing to their goal of enacting social change that oppresses their victims. This is because contextualism provides a general and apparently content-neutral statement of the goal of enacting social change. This leaves open the possibility that the pursuit of those goals is motivated by the desire for selfish gains or outright malice. Importantly, criminal and even terrorist organizations can have among their projects a goal of enacting social change – albeit social change in service of repugnant aims, at the expense of unjustly harming some people. This appears implausible, or at least unacceptable.

Our immediate and intuitive recoil from this verdict is worth scrutiny. To be clear, it is not – and cannot be – about the fact that such collectives do not have the goal of enacting social change. For indeed they do. And the fact that their goals are unjust, should not lead us to obscuring or erasing their existence and operation. Our unease, instead, centers on the aforementioned special status or cachet of disobedience – absent from crime – which provides defeasible justification for treating disobedients more sympathetically. However, such sympathy seems unfitting for the illegal actions of the KKK or organized gangs.

Contextualism does not (nor does it need to) reject the claim of unfitting sympathy. Its response is to loosen the connection between the characterization of an act as disobedience, and our preparedness to extend sympathy with it. This is not to deny the special status or cachet of disobedience. Instead, it is to say of such a status that it does not have *conclusive* weight in our deliberations about how to treat acts of disobedience. That is, the mere fact that an act is one of disobedience does not mandate sympathy; that an act is not one of disobedience does not call for repression. Instead, how we treat disobedience – whether sympathetically or otherwise – should also depend on the justifiability (or more generally, the justness) of the goals of those acts. When the goals are unjust, we have reason not to treat acts in service of them sympathetically. In other words, the sympathetic treatment of acts of law-violation must rest on at least two important conditions – one is that they must be acts of disobedience, another is that they must be justifiable or just. Only when both conditions are satisfied, do we have sufficient grounds for sympathetic treatment. Thus, even if contextualism treats the actions of the KKK or organized gangs as disobedience, it can reject treating them sympathetically on the basis of their injustice. Contextualism does not deliver an unpalatable rehabilitation of abhorrent actions.

Of course, which acts we eventually extend our sympathy to, depends on the conception of justice with which we operate. And it is possible that our conceptions of justice might be so systematically distorted or prejudiced that we fail to regard some actions as being in service of justifiable or just goals (Lim 2024), and therefore that acts of law-violation working towards such goals should not be treated sympathetically. But notice that this requires us to pull back the curtain on the fact that it is our judgment about the supposed injustice of their actions that delivers the verdict. Once we see this, we see that some conception of justice is likewise at play – and indeed required – for individualism to exclude such acts from being characterized as disobedience to begin with. Specifically, individualism would have to say that the convictions and judgments of the KKK or gangs are, because of their injustice, not those that can accord their action the special status or cachet of disobedience. Thus the contextualist says to the individualist, *tu quoque*.

Finally, and relatedly, we might worry that in regarding such acts as disobedience, contextualism appears to abandon the project of differentiation with which we began, and in which it is ostensibly engaged. The appearances are mistaken. Contextualism does not so much abandon the project of differentiation, as it re-frames what is involved in such differentiation. It takes seriously, and as its starting point, the recognition that acts of disobedience paradigmatically seek to change the world. Insofar as the unjust actions of some collectives can sometimes be oriented towards such goals, they are acts of disobedience. The inclusion of such acts, does not entail us to erasing the distinction between disobedience and mere criminality. Contextualism can continue to exclude criminal acts as those which are not connected to collective action in the way it requires.

Conclusion

I have argued that the individualist view of political disobedience runs into difficulties in demarcating political disobedience, in circumstances where the social meanings of some actions (especially those belonging to minority groups) are distorted by prejudice. These difficulties provide motivation for a contextualist view of political resistance. According to my view, an act of law-violation is one of political disobedience if a collective claims it as an act that contributes to its goal of enacting social change, and if the law-violator assents to such a claim. My view avoids the difficulties besetting individualism, and foregrounds the political character of acts of political disobedience.

By way of concluding, I briefly consider an implication of the contextualism on offer, concerning the requirement that disobedients accept punishment. Individualism takes a straightforward position on the issue – disobedients must accept punishment for their acts of law-violation, as a way of displaying the sincerity or genuineness of their convictions or judgments. However, and as many theorists have recognized, such a requirement can be deeply problematic. Among other things, accepting punishment can be detrimental to collective action to enact social change (Greenawalt 1989), is not necessarily indicative of the law-violator's convictions or judgments but might simply reflect their strategic concerns (Brownlee 2012), be unreasonable in the face of extremely harsh sentences (Scheuerman 2018), or be incompatible with their refusal to recognize the legitimacy of the state which seeks to enact such punishment (Coulthard 2014; Borrows 2016), among many others. The attempt to excise this requirement, however, appears *ad hoc*. The existence of unwelcome effects of accepting punishment, leaves untouched the fact that doing so can often successfully communicate the sincerity of disobedients' convictions and judgments – the latter of which is individualism's primary concern. Contextualism, in contrast, simply treats punishment as irrelevant to the demarcation of disobedience. It leaves open the door – in a principled and non-arbitrary manner – for disobedients to reject and even evade punishment, if doing so would further their goals of enacting social change. However, contextualism does not require that disobedients to reject or evade punishment. It likewise leaves open the door for them to accept punishment, if doing so would augment their standing among their audience or, more generally, would further their goals. The same point can be reiterated for any of the requirements that individualism imposes on disobedients. This is yet another feather in contextualism's cap.

Notes

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