Defining civil disobedience and direct action

DIRECT ACTION
The term ‘direct action’ is very broad. It refers to the use of demonstrations, strikes, boycotts, and other public protests, rather than negotiation or voting, in order to achieve one’s goals. Direct action may be legal (as in organized demonstrations, agreed with the police in advance) or illegal (such as breaking into a laboratory and releasing the animals), it may be directed against the state or it may be aimed at employers or institutions. It may be violent or non-violent. It may try to achieve its aims by raising the public awareness of an issue or simply by intimidation. The syllabus glosses direct action and civil disobedience as ‘the use of unlawful public conduct for political ends’. So we can put legal direct action to one side.

CIVIL DISOBEDIENCE
The definition of ‘civil disobedience’ is narrower, but also more contentious. We will concentrate on developing this definition, and return to the relation between direct action and civil disobedience at the end of this handout.

To define civil disobedience as any deliberate violation of the law, motivated by a sense of morality and pursuing a social or political end is too broad. An assassination could fulfil these conditions. So we start with a much narrower definition by the philosopher John Rawls, and will then discuss each element of the definition: ‘I shall begin by defining civil disobedience as a public, non-violent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government. By acting in this way one addresses the sense of justice of the majority of the community’ (A Theory of Justice, p. 363).

Contrary to law
Civil disobedience always involves doing something illegal. However, in most democratic countries, civil disobedience is not itself a crime. If arrested and prosecuted, protestors are charged with breaking whatever law was broken by the act of civil disobedience (blocking a public highway, trespassing, etc.).

Conscientious yet political...done with the aim of bring about a change in the law or policies of the government
Ordinary violations of the law do not have the aim of changing the law or demonstrate opposition to a government policy. They do not seek to make a statement or communicate a message to society. People break the law for many reasons, apart from the usual ones of greed, self-interest and emotion that motivate criminals. For instance, they may break the speed limit without thinking they are doing anything particularly wrong, because they feel there is no strong moral reason to obey the speed limit. Or they may break the law because it conflicts with a personal moral conviction. This may be because they rank some other moral duty, e.g. to protect a friend, higher than the duty to obey the law; or it can be a case of ‘conscientious objection’.
Like conscientious objection, civil disobedience is motivated by sincere, serious views about what is morally right. Protestors are also often concerned about what is in the best interests of society. They think that the law or policy they are protesting against is immoral or damaging to society. However, conscientious objectors usually not try to change the law, but simply seek to ‘opt out’, while civil disobedience always aims to change some law or policy. Conscientious objectors do not necessarily try to publicise their actions, and their reasons for breaking the law. Civil disobedience always has this political aim.

Some famous instances of civil disobedience have succeeded in changing the moral ideas of society. The suffragette movement of the early 20th century secured the right of women to vote; Mahatma Gandhi in India secured the end of the British Raj and self-government for Indians; in the USA, Martin Luther King and others secured equal civil rights for non-whites and student protests contributed to the end of the Vietnam War. Contemporary civil disobedience campaigns include anti-abortion campaigns that trespass on abortion clinics; in the animal rights movement, the releasing of animals from laboratories; and many of the actions of Greenpeace, e.g. against whaling, and other environmental organizations in protest at developments that destroy nature or lead to pollution.

Must all civil disobedience aim at changing the laws or policies of the government? What about protests against companies or universities? An example would be protests against companies that rear animals for experimentation. Some protests aim is to get a legal ban on the institutions practices, so fall under Rawls’ definition. But we could argue that there are more social authorities than the state. Action that aims at changing the rules or policies of a social authority that is not the state shouldn’t be ruled out as civil disobedience just for that reason.

Addresses the sense of justice of the majority of the community
This condition is too narrow. Civil disobedience always makes some moral appeal, but it can attempt to change society’s sense of justice, or it may not appeal to justice, but to other moral concerns, such as the right to privacy, or issues of security, or the issue of how we treat animals.

Appealing to society’s sense of justice is also not the only means civil disobedience uses to change the law. Many acts of civil disobedience also aim to make it more difficult to implement a policy, e.g. chaining oneself to a tree to prevent a wood from being cut down. The hope is that the costs of putting the policy into practice will be so high, the government will change its mind.

Non-violent
It may be that using violence in protest against a law is not justified, but that doesn’t mean that all violent acts of protest fail to count as civil disobedience. We need to make this distinction, because we should not assume that all acts of civil disobedience are justified.

Some philosophers have argued that civil disobedience must be ‘civil’ in its methods and tactics, and therefore non-violent. But this is just a pun on ‘civil’, which relates to the state not to behaving ‘civilly’.
If the violence is widespread and unfocused, then the protest will not be civil disobedience, but a riot or revolutionary action. However, limited violence, focused very specifically, may form part of an action designed to highlight a serious moral wrong.

Public
Civil disobedience must be public, but what does this mean? First, civil disobedience aims to communicate to society the protestors’ condemnation of the law and their desire for the law to be changed. This message can only be communicated if the act of civil disobedience is announced. But does the act itself need to take place publicly? If this was always done, some acts would become impossible, because they would be prevented. The example above of releasing animals from laboratories is such a case.

Second, the public nature of civil disobedience relates to the protestors showing that they respect and submit to the law. By allowing themselves to be identified and arrested, they show that by breaking the law, they are nevertheless not seeking to undermine the law. However, we can again question whether this is part of the definition of civil disobedience, or part of its justification. Many animal rights protestors who release animals from laboratories do not give themselves up. And in a tyranny, it may be life-threatening to do so. Furthermore, under such an unjust government, the protestors may lack respect for the law. To rule out acts that would otherwise count as civil disobedience just because the protestors do not submit to the law may be too restrictive.

A continuum of cases
We saw that direct action covers a very wide range of cases – legal or illegal, directed at the state or institutions, violent or non-violent, working through moral appeal or just intimidation. Civil disobedience covers far fewer, but exactly how many depends on how restrictive the definition is. At its core, civil disobedience is always illegal, done for moral reasons, aiming at a change in the rules of a social authority, and public, because it attempts to appeal to and communicate with society’s sense of morality. Civil disobedience, then, is clearly a type of direct action.

It is probably more useful to find the rough borders of civil disobedience than an exact definition. At one end, there is direct action that is legal, e.g. boycotts and protest rallies. Then there is civil disobedience – first, cases that comply with Rawls’ restrictive definition and then cases that don’t. Then there are cases that are on the border between civil disobedience and revolution, which aim not at changing this or that law, but the whole structure of the state, such as Gandhi’s protest against the British Raj. Then, at the other end of the spectrum, there are cases of direct action and revolutionary action that do not aim to bring about change by persuasion, but by violence and intimidation.