

IS BOSSNAPPING UNCIVIL?

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Is Bossnapping Uncivil?

Piero Moraro

A central question in political philosophy concerns whether citizens of democratic societies are under a moral obligation to obey the laws of their government. Where such obligation is acknowledged, it is nonetheless treated as *pro tanto*, since the duty to obey the law (like most duties that apply to us) can be overridden by other, weightier considerations warranting disobedience of the law. For example, supporters of the duty to obey grant that, under specific circumstances, citizens might engage in acts of “civil” disobedience. Rather than discussing under *what* circumstances citizens may do so, in this paper I focus on what it means for an act of disobedience to be “civil”.

Between 2009 and 2012, in the aftermath of the Global Financial Crisis, French workers engaged in an extreme form of political protest, known as “bossnapping”. Faced with the prospect of lay-off with little or no compensation, frustrated employees resorted to taking their employers hostage in their own offices, to force them to enter a negotiation and accept (at least part of) the workers’ demands. While “kidnapped”, employers were treated with care, provided with water and food and allowed to make phone calls: nonetheless, they were literally kept prisoners for up to 48 hours.¹

Bossnapping raises an interesting philosophical puzzle. On the one hand, it lacks the threatening nature of standard cases of abduction, where the kidnappers are willing to kill the victim if their requests are not accepted: hence, it appears less “uncivil” than other forms of political confrontation, e.g. terrorism. However, few would be willing to treat bossnapping akin to civil disobedience: the latter has traditionally been interpreted as “non-violent”, while bossnapping seems inherently violent. Hence, as it differs from terrorism, bossnapping also seems different from civil disobedience (which is persuasive rather than coercive). We could argue that, all things considered, bossnapping might be justified by the specific circumstances under which it is carried out (e.g. unfair dismissal): however, this would be a case of “justified, yet uncivil”, rather than of “civil”, disobedience.

1 - Nick Parsons, “Legitimizing Illegal Protest: The Permissive Ideational Environment of ‘Bossnappings’ in France”, *British Journal of Industrial Relations*, 51, 2013, pp. 288-309.

In this paper, I argue that bossnapping could be considered, under some circumstances, a form of civil disobedience. I do so by offering an account of the latter as a persuasive form of protest that may, nonetheless, involve the attempt to force others to engage in a communicative exchange. I expound an argument I have made elsewhere, to deny that civil disobedience must be, necessarily, non-violent.² According to this argument, addressing others in ways that infringe on their freedom does not imply treating them uncivilly.

The paper has three sections. In section 1, I set the theoretical foundations of my argument. First, I discuss the notion of *political civility*, which I ground, in turn, on a requirement to treat fellow citizens with the appropriate respect for their status as autonomous agents. I then articulate a conception of autonomy as the agent's capacity to choose and pursue his conception of the good. Then, I criticise the Rawlsian notion of a "duty of civility", which prescribes restraint in public speech, and endorse Habermas' idea of *performative attitude* as a better fit to my conception of civility.

In section 2, I narrow my focus on civil disobedience, highlighting four of its distinguishing features: (a) illegality, (b) communicativeness, (c) intentionality and (d) persuasiveness.³ I dwell on (c) and (d), to stress the importance of the agent's intention for assessing the civility of his conduct. I then contend that forcing others to engage in a communicative exchange may not be deemed uncivil. I argue, nonetheless, that the use of force must satisfy a Kantian proviso not to treat others merely as means but also as ends in themselves.

In the third section, I finally apply these claims to the case of bossnapping, to show that, under some circumstances, it could constitute a form of civil disobedience.

This paper provides a philosophical speculation on the relation between violence and civility. While it uses bossnapping as a case study, it should not be interpreted as praising or encouraging this kind of conduct, which remains morally controversial. My only goal is to highlight that *civility* does not entail *non-violence*, and that even an act of bossnapping, under some circumstances, could fit the description of a civil act. Nevertheless, I acknowledge that there is a presumption *against* using force on others, and that force should always be kept to a minimum. Hence, my argument should not be read as a defence of bossnapping, but rather as a reflection on the difficulties in defining a certain conduct as "civil" or "uncivil".

2 - Piero Moraro, "Respecting Autonomy through the Use of Force: the Case of Civil Disobedience", *Journal of Applied Philosophy*, 31:1, 2014, pp. 63-76.

3 - The word "intentionality", in this paper, refers to its colloquial meaning of "having an intention". It should not be confused with the way it is used in philosophy of mind [Franz Brentano, *Descriptive Psychology*, transl. by Benito Müller, London: Routledge, 1995].

On Civility

It is usually assumed that civility is good, and that we should behave in civil rather than uncivil ways. However, we lack an explanation of the *qualitative* difference between a civil and an uncivil act: what makes the former morally superior to the latter? In this section, I address this question by offering an account of civility based on the value of individual autonomy. In my view, a civil conduct is *pro tanto* superior to an uncivil one, for it treats others with the respect due to their status as autonomous agents. Hence, in this section I also defend a conception of autonomy as self-legislation: I argue that citizens act civilly, in the political arena, when they respect their fellows' right to make uncoerced political choices. Nonetheless, I also contend that acting civilly does not entail acting "non-violently".

Let us start from a platitude: one difference between "civil" and uncivil disobedience is that only the former displays the agent's civility. However, as with most virtues, civility does not single out any particular action: despite its popularity in political theory, it remains a somewhat vague label, loosely used to indicate "the moral and political qualities that make a good citizen".⁴

Civility is usually associated with attitudes such as politeness, courtesy and tolerance: we praise the civil person for her good manners at the table, for her conversational skills and capacity to listen, while we criticise the uncivil conduct of those who talk on their mobile phones inside libraries, use foul language, do not pick up their litter etc. When we narrow the focus onto the political arena, we treat as uncivil those who resort to insults, threats, not to mention physical violence; we praise, on the other hand, the civility of those who are willing to listen to others, who accept criticisms, who follow the rules and so on.

Hence, at the core of a civil attitude there is a disposition to get along with others on good terms, to follow common rules and, overall, to show respect and consideration for others. One main reason we approve of those who act civilly (and, conversely, disapprove of those who act uncivilly) concerns the way they treat others: their behaviour shows respect for others' feelings, interests, needs etc. The person who keeps talking on her mobile phone in the library, uses foul language in public, does not clean up after herself etc. fails to show proper regard for others *and therefore* acts uncivilly. From this standpoint, civility is intrinsically *relational*, for it centres on *the manners* in which agents relate to each other. As Cheshire Calhoun's has argued, civility is a disposition that "communicates basic moral attitudes of respect, tolerance and considerateness" or, more specifically, that acknowledges "the value of others' lives".⁵ Such value, in the view I defend, refers to people's status as autonomous agents.⁶

4 - Michael Walzer, "Civility and Civic Virtue in Contemporary America", *Social Research*, 41, 1974, p. 693.

5 - Cheshire Calhoun, "The Virtue of Civility", *Philosophy and Public Affairs*, 29, 2000, p. 258.

6 - Joseph Raz, *Value, Respect and Attachment*, Cambridge: Cambridge University Press, 2001.

For the purposes of this discussion, I identify autonomy with an agent's capacity to be in control of his own life.⁷ An autonomous agent is able to choose and pursue his own conception of the good, and to give directions to his life according to that choice.⁸ Following Gerald Dworkin's account, I propose to distinguish this notion of autonomy from that of *freedom*, for freedom applies to a realm of human agency that is narrower than that pertaining to autonomy.⁹ While a person can be said to be "free" at a *specific moment* in time, the assessment of her *autonomy* involves evaluating a substantial *section* of her life. This is because the role played by autonomy in one's life connects to an agent's identification with her own projects, values, goals and desires. There is a peculiar difference between, for example, the choice to have coffee rather than tea, and the choice to support a certain policy or political party: the latter mirrors, to some extent, the choice to be a particular kind of person, who endorses a certain conception of the good.¹⁰ Hence, being autonomous involves *more* than just being free. As a character ideal of persons who are in control of their lives, autonomy requires *a certain degree* of freedom: yet, while the latter may be necessary for an individual to be in the condition of an autonomous agent, it is *not sufficient*.¹¹

Autonomous agents enjoy a claim right against undue interferences from others in the formation and execution of their life choices.¹² The right generates mutual obligations among autonomous agents: nobody has standing to limit the choices of others, except to protect one's own equal claim against undue interferences.¹³ Against this background, the rule of law constitutes a necessary institution for the fulfilment of the right to autonomy. The state plays a key coordinating role, by enforcing rules (i.e. laws) preventing agents from unduly infringing on each other's choices in the pursuit of their own ends in life, but also defining the content of other rights necessary for the fulfilment of the right to autonomy.¹⁴ From this standpoint, there is a direct connection between

7 - Steven Wall, *Liberalism, Perfectionism and Restraint*, Cambridge: Cambridge University Press, 1998, p. 128.

8 - This is not to say that children or mentally disabled people have no autonomy, despite lacking the capacity to make choices. They still have a right to be treated as autonomous agents, e.g. to have someone make choices on their behalf.

9 - Gerald Dworkin, *The Theory and Practice of Autonomy*, New York: Cambridge University Press, 1988, pp. 13-20.

10 - See Geoffrey Brennan and Loren Lomasky, *Democracy and Decision: the Pure Theory of Electoral Preference*, Cambridge: Cambridge University Press, 1993, p. 186: "To cast a Klan ballot is to *identify oneself* in a morally significant way with the racist policies that the organization espouses".

11 - As I argue below, this implies that infringing on a person's freedom does not entail infringing also on her autonomy.

12 - Marina Oshana, *Personal Autonomy in Society*, Abingdon: Ashgate Publishing, 2006, p. vii. See also Joseph Raz, *Value, Respect and Attachment*, *op. cit.*; Richard Dagger, *Civic Virtues: Rights, Citizenship and Republican Liberalism*, Oxford: Oxford University Press, 1997.

13 - Arthur Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy*, Cambridge: Harvard University Press, 2009, p. 19.

14 - Anne Stiltz, *Liberal Loyalty: Freedom, Obligation and the State*, Princeton: Princeton University Press, 2009, pp. 27-56.

one's membership to a political community, i.e. one's status as citizen, and one's status as an autonomous agent.

How does this relate to the idea of civility? The etymology of this term reveals a direct connection to the notion of *civis*, the citizen: civility, then, involves a disposition to act in ways that display good citizenship, i.e. by respecting others' autonomy. *Political* civility implies a disposition to avoid undue infringements upon others' autonomous choices. In the political realm, citizens act civilly when they eschew coercing, intimidating, or undermining others in the public arena. The choice to disobey the law, from this standpoint, is uncivil for it fails to comply with the requirements of a system designed to protect and promote the equal right of each agent to make autonomous choices.

I should stress my focus is on *political* civility, i.e. a disposition to respect fellow citizens as equal under the rule of law. However, a person might display civility at the interpersonal level (in the sense I mentioned above), by showing consideration for others in public spaces, on transports etc., while at the same time displaying political *incivility* by disregarding the duty to submit to a shared system of rules based on the value of individual autonomy, i.e. by disobeying the law.¹⁵ My concern in this paper is with citizens' civil conduct within the political realm: henceforth, my discussion of civility will refer to this political conception.

The above remarks shed some light on the notion of *civil disobedience*. As I discuss in the next section, this kind of conduct involves a breach of the law which, nonetheless, abides by the basic values underpinning the political community: when a citizen engages in civil disobedience, despite breaching the letter of the law he still treats others with the respect due to their status as autonomous agents. Before discussing this aspect in more detail, however, I need to say something more on the notion of civility, namely *how* citizens can address each other in ways that respect individual autonomy.

I begin from John Rawls' idea of a *duty of civility*, which stresses the importance of *restraint in public speech*: for Rawls, civility requires citizens to defend their political views by appealing only to *public reasons*, i.e. to principles others could reasonably accept.¹⁶ From this standpoint, the use of *private* reasons (or what Rawls calls one's own "comprehensive views") to defend one's own claim in the public arena would be uncivil, for it would disregard the fact that people's values and ideals often differ in irreconcilable ways. Thus, from the Rawlsian perspective, we act uncivilly not only when we use offensive or threatening language, but also when we advance views others could not reasonably accept due to irreconcilable differences in personal values (e.g. religious views). As Charles Larmore writes,

15 - *Vice versa*, an agent might display his political civility while, at the same time, failing to be civil in his private interactions with neighbours and friends. I thank an anonymous referee for pointing out this important distinction in the use of the term "civility".

16 - John Rawls, *Political Liberalism*, New York: Columbia University Press, 1996.

[a] commitment to treating others with equal respect forms the ultimate reason why in the face of disagreement we should keep the conversation going, and to do that, *of course*, we must retreat to neutral ground.¹⁷

By keeping to this neutral stance, citizens are able to achieve an (allegedly) otherwise impossible agreement. Yet, there are reasons to be sceptical of an “agreement” based on such premises. Many have criticised this view, questioning the idea of a debate that avoids the point on which the disagreement hinges, and focuses only on those views we can all share.¹⁸ More importantly, Rawls’ idea of civility appears to circumvent the *interpersonal* dimension of our everyday experiences. When we decide to avoid certain claims in our discussion, believing others could not reasonably accept them as valid, we move closer to adopting what Peter Strawson called the *objective stance*, i.e. to approaching our fellows in the same way we approach children, or the mentally insane: namely, as individuals with whom we cannot engage in reasonable discussion.¹⁹ Hence, far from respecting others as autonomous agents, restraining our attempt to advance substantive claims in the public arena would *disregard* them in their capacity to respond appropriately to reasons that apply to them.²⁰

There are good reasons to believe, contra Rawls, that what is worth debating is exactly *why* we disagree, and how the disagreement, however unavoidable, may be addressed. While it is beyond the aims of this paper to provide an overview of the philosophical discussion on this issue, for the purposes of this discussion I defend an alternative account of civility, based on Jurgen Habermas’ theory of communicative action. It is true for Habermas, as it is for Rawls, that a norm is valid only if grounded on shared convictions: however, in Habermas’ view, the latter are to be achieved *collectively*, through a process of mutual confrontation. To reach an agreement, subjects must *become* persuaded of a certain claim’s validity, which means that interaction and rational exchange play a central role in the attempt to address a disagreement.²¹

For Habermas, in order to reach an agreement, agents must engage in “communicative action”, i.e. action oriented towards mutual understanding. The speaker must adopt a “performative attitude”, and engage in what

17 - Charles E. Larmore, *Patterns of Moral Complexity*, Cambridge University Press, 1987, p. 67. See also, Bruce Ackerman, “Why Dialogue?”, *Journal of Philosophy*, 86, 1989, p. 16: “we should simply say *nothing at all* about this disagreement, and put the moral ideas that divide us off the conversational agenda of the liberal state”.

18 - Jeremy Waldron, *Law and Disagreement*, Oxford: Oxford University Press, 1998.

19 - Peter F. Strawson, *Freedom and Resentment and Other Essays*, Oxon: Routledge, 2008.

20 - David Archard, “Political Disagreement, Legitimacy, and Civility”, *Philosophical Explorations*, 4, 2001, pp. 207-222.

21 - Shane O’Neill, *Impartiality in Context: Grounding Justice in a Pluralist World*, SUNY Press, 1997, p. 132.

Habermas calls “ideal role taking”.²² To assume an impartial point of view for argumentation, any subject participating in the discourse is required to put herself in the position of all those who would be affected if a controversial norm were to be adopted.²³ The process of understanding is *reciprocal*, so that each participant approaches the deliberative arena with a willingness to identify with the claims of the interlocutors in the pursuit of a rational agreement.

Thus, contrary to the Rawlsian view, Habermas’ approach holds that speakers should *engage* in social interactions, rather than *retreat* to neutral grounds: they should enter the deliberative arena aiming to persuade others of the validity of their own views. At the same time, through this rational exchange with others, the speaker may reach a better understanding of his own view and, possibly, be persuaded by others’ arguments. Deliberation, in this sense, plays a transformative role, through which participants may adjust their respective views to finally reach an agreement.

This point is important for the present discussion on civility. As we saw above, for Rawls civility requires restraint in public speech, e.g. the avoidance of claims others could not reasonably accept. Habermas points in the opposite direction, arguing that we should approach each other, in the deliberative arena, in ways that consider who we are, what (different) kinds of values we subscribe to, what (different) principles back our own choices.²⁴ A discussion that respects others as rational agents requires debating what is *peculiar of one’s own view*, by addressing others as persons who can be *persuaded* through a rational exchange. We show respect for each other, in the public arena, when we provide reasons in support of our own view while, at the same time, remaining open to the possibility that others may have a stronger argument than ours.

The upshot of this discussion is that civility does not entail restraint: the latter may, rather, show disrespect for others as autonomous agents. To show the appropriate respect for others’ autonomy, we should engage them in a sincere and open exchange, by adopting a performative attitude to reach an agreement, or at least a compromise between different viewpoints. By engaging with others in ways that preserve their capacity to make choices, even when those choices may involve reconsidering the validity of their own ideas, we treat them as autonomous individuals. Civility, therefore, is not to be confused with passivity and acquiescence.

Civil Disobedience

We saw above that the law plays an important role in protecting citizens’ status as autonomous agents. How, then, could a breach of the law respect

22 - Jürgen Habermas, *Moral Consciousness and Communicative Action*, Cambridge: Polity Press, 1990, p. 182.

23 - This grounds Habermas’ Discourse Principle (D): “Every valid norm would meet with the approval of all concerned if they could take part in a practical discourse”, *ibid.*, p. 121.

24 - Habermas refers to this sets of values as an agent’s own “lifeworld”, *ibid.*, p. 135.

individual autonomy? That is to say, how could an act of disobedience be deemed *civil*? In this section, I first identify the typical features of civil disobedience. Second, I highlight the link between these features and the idea of civility discussed above. Third, I argue that illegal actions that involve a serious interference with others' freedoms may, nonetheless, be deemed civil.

There is persistent disagreement over the necessary conditions an illegal act must fulfil to qualify as "civil": after John Rawls' attempt to provide a comprehensive list of such conditions, political philosophers have offered a range of counterexamples to challenge his claim that a civil disobedient must (among other things) act non-violently, notify the authorities before the protest, and accept the punishment afterwards.²⁵ More recently, theorists have abandoned the search for necessary conditions, rather focusing on general features characterising a civil act of disobedience of the law.²⁶ One major reason for this shift is that we cannot deem an action civil or uncivil without looking at the specific context in which it is performed: as McDowell has argued, the assessment of a certain conduct as *virtuous* builds from the outside in (i.e. focusing on the agent's character), rather than from the inside out (i.e. focusing on the act's specific characteristics).²⁷ The same action may qualify as civil under some circumstances, yet not under others: the agent's submission to the punishment, for example, in some contexts may be a sign of his *incivility*.²⁸

For the purposes of this discussion, I identify four features of civil disobedience. These are (a) illegality, (b) communicativeness, (c) intentionality and (d) persuasiveness. These features, I argue, can be reconciled with a conception of civility based on Habermas' "performative attitude". According to the view I defend, an act of civil disobedience involves a *persuasive breach of the law*, carried out with the *intention to communicate* a concern about a certain law or policy. This account does not prescribe any specific action, as we will see, thus fitting well with the context-sensitivity of the notion of civility. It highlights that civil disobedience, while obviously involving law-defiance, differs from common law-breaking in virtue of its forward-looking and persuasive nature. Citizens resort to this kind of conduct to initiate a communicative enterprise involving their fellows and state representatives: they resort to civil disobedience *to address* the majority in power and the political community at large. This is an important element to highlight, for civil disobedience is often misunderstood as a mere act of expression, a "safety valve" through which citizens can voice their anger and release their frustration for the perceived injustice.²⁹ However, acts of *expression* (as opposed to acts of *communication*)

25 - John Rawls, *A Theory of Justice*, Cambridge: Harvard University Press, 1971, pp. 319-323.

26 - Kimberley Brownlee, *Conscience and Conviction: the Case for Civil Disobedience*, Oxford: Oxford University Press, 2012, p. 18.

27 - John McDowell, "Virtue and Reason", *The Monist*, 62, 1979, pp. 331-350.

28 - Kimberley Brownlee, *Conscience and Conviction...*, *op. cit.*, p. 23.

29 - Vinit Haksar, *Civil Disobedience, Threats and Offers: Gandhi and Rawls*, Oxford: Oxford University Press, 1986, pp. 36-37.

do not require an audience. I may successfully express my rage, or my joy, by screaming or singing in my house, with no one hearing me: but I could not *communicate* those feelings unless there were someone to acknowledge them. While expression can be successfully performed by the individual *alone*, communication is other-oriented: as Antony Duff points out, “communication involves, and expression need not, a *reciprocal* and *rational* engagement”.³⁰

Civil disobedience is not only a communicative act, but also an *intentional* one. We often communicate things unintentionally: a person biting her fingernails may communicate to others that she is feeling anxious, regardless of her actual intention to do so. A civil disobedient, on the other hand, engages in law-breaking with the deliberate aim to communicate to others her belief that a certain law or policy should be reconsidered. This notion of intentionality is crucial to the claim I advance in the next section, namely, that the use of force may not jeopardise the civility of a certain act.

Following Brian Smart’s account, we can interpret the choice to engage in civil disobedience as based on *three* different, though related, intentions.³¹ The first is the intention to bring about a change in the hearer, by communicating to him a certain belief about a possible injustice in the legal system (intention 1). The second (intention 2) is the intention that the hearer recognise intention 1. This is meant to rule out cases of deception or manipulation, where the speaker may try to bring about a change in the hearer by communicating a false belief. The manipulator may not want the spectator to understand the real intention behind his communicative act: his goal is to use the spectator to his own advantage. The utterer/audience relation, on the other hand, is different: here, the former seeks to openly engage the other in a rational exchange, hence needs to make his intention clear, for such exchange to succeed. For Smart, civil disobedience, as an act of communication, involves the utterer/audience relationship.

This is an important insight to understand the communicative nature of civil disobedience: the individual breaks the law with the intention to induce others to reconsider a certain law or policy (intention 1), but also with the intention that others understand what motivates his law-breaking conduct (intention 2). In breaching the law, the civil disobedient does not simply intend to generate a certain belief in others (i.e. that a certain law or policy may require further deliberation): he also intends that his intention for breaching the law be understood. He wants his fellows to understand that he has resorted to violating the law not for his own advantage, but rather to initiate a debate about a law deemed seriously unjust.

This leads to the third intention underlying the communicativeness of civil disobedience (intention 3): the speaker intends that the effect on the audience

30 - R. A. Duff, *Punishment, Communication, and Community*, Oxford: Oxford University Press, 2001, p. 79. See also Kimberley Brownlee, *Conscience and Conviction...*, *op. cit.*, p. 140.

31 - Brian Smart, “Defining Civil Disobedience”, *Inquiry: an Interdisciplinary Journal of Philosophy*, 21:1-4, 1978, pp. 249-269.

be produced by the audience recognising intention (1). Citizens who engage in civil disobedience intend to induce in their fellows the belief that a certain law or policy should be reconsidered (intention 1): they intend their fellows to understand that they are breaching the law aiming to obtain such effect (intention 2); and they intend that effect to occur upon their fellows recognising intention 1 (intention 3). Upon realising how far the protesters have gone (to the point of openly breaching the law) to denounce a possible injustice in the legal system, the addressee would be persuaded to pay attention to their message, and engage with the idea that the specific law or policy might require further deliberation – or so the disobedient hopes. Crucially, *this is not to say that the addressee would then accept the protesters' demands*: having heard the protesters' reasons, the addressee may still conclude that the law or policy should not be rediscussed, all things considered.

The latter comment paves the way for the fourth feature of civil disobedience, namely, *persuasiveness*. When suicide bombers blow themselves up in public spaces, killing dozens of innocent people, they may be engaging in an intentional communicative act, seeking to elicit a reply from the rest of society: a threat is, in many cases, an intentional communicative act. But this kind of conduct is intrinsically uncivil: due to its coercive nature, it is incompatible with a requirement to respect others as autonomous agents. Civil disobedience, on the other hand, does not seek to coerce others into accepting the protesters' requests; it constitutes a forward-looking, cooperative act, whereby citizens resort to breaching the law aiming to engage others in a rational exchange.³²

The disobeying agents certainly intend to affect people's opinion about a certain law or policy, but they act in a non-coercive way. They approach their fellows with a "performative attitude" (in Habermas' sense), i.e. seeking to reach an "understanding" grounded on mutual *persuasion*. Their conduct is, therefore, "civil", for they treat others as autonomous agents, with the right to make uncoerced choices in the public arena.

As I discussed in the previous section, civility, like most virtues, is not exemplified by a specific act: the same conduct may qualify as benevolent, courageous, civil etc. under some circumstances, yet fail to do so under different ones. We cannot assess the civility of an act without focusing on the agent's inner disposition. Thus, to define whether a certain behaviour, in the political arena, displays civility, we need to go beyond its specific characteristics; the fact that, in addressing others, a citizen may use a degree of force does not suffice to establish that his conduct is uncivil. Hence, we may not claim that an act of disobedience is *uncivil* simply because it infringes on others' liberties.

32 - Andrew Sabl, "Looking Forward to Justice: Rawlsian Civil Disobedience and Its Non-Rawlsian Lessons", *Journal of Political Philosophy*, 9:3, 2001, pp. 307-330. The cooperative, forward-looking nature of civil disobedience sets it aside from the practices discussed, respectively, by Smith and Aitchison in their contributions to this symposium. Smith focuses on *direct action*, namely "a mode of disruptive activism carried out with the aim of obstructing or deterring contentious practices". Aitchison defends a form of "democratic coercion", which he describes as a (coercive) instrument to counteract the private domination of powerful individuals or group.

As I discussed above, infringing on someone's freedom does not entail infringing on that person's autonomy as well: rather, the former may at times be necessary to treat that person with the appropriate respect for his autonomy.³³ Using a degree of force as part of the address may be compatible with the persuasive aims underpinning a performative attitude.

To expand on this latter claim, I contend that civility may allow for the use of a degree of force insofar as the latter is employed in ways that abide by a Kantian proviso to treat others not merely as means but also as ends in themselves.³⁴ This proviso articulates what it means to treat others with the due respect for their status as autonomous agents; it also sheds light on the problem arising from the "objective attitude". The torturer seeking to extort a confession from his victim disregards the latter's status as autonomous agent, by treating him merely as an instrument for his own goals. The torturer has no intention to "persuade" his victim about the necessity of revealing the information the torturer is seeking: his attitude is purely objective.³⁵ The same could be said of a manipulator, who uses deception to mislead the hearer into doing what the manipulator wants. However, forcing someone to engage in a debate with us, on an issue deemed very serious, may not breach the Kantian proviso: while forced to listen, the individual would still be able to make his choices at the end of the discussion – hence his self-legislating capacity would not be hampered.

I contend that many cases of civil disobedience, despite infringing on others' freedom, satisfy the Kantian proviso. These actions may cause serious inconveniences to other people, for example when involving traffic or workplace disruptions. Often, these disruptions are part and parcel of civil disobedience; e.g. it is by temporarily bringing an airport to a standstill that environmental protesters can give proper publicity to their concern about climate change, hence elicit a reply from their fellows and from state representatives.³⁶ However, despite intentionally imposing this disruption onto their fellows, the protesters still treat them also as ends in themselves.

This is because, as mentioned above, their act of protest does not seek to impose their demands (i.e. a change in legislation) upon others: civil disobedience is a plea for further deliberation, not an attempt to impose a certain outcome upon the addressee. The latter preserve his right to accept or reject the protester's case for changing the law.³⁷ In the case of environmental protest

33 - I have defended this view at length in Piero Moraro, "Respecting Autonomy through the Use of Force...", *op. cit.*

34 - See also Piero Moraro, "Violent Civil Disobedience and Willingness to Accept the Punishment", *Essays in Philosophy*, 8:2, 2007.

35 - Non-violence may also display an "objective attitude", and be as coercive as violence. Gandhi's boycott campaigns aimed at forcing the British Empire to accept the protesters' requests. This shows that there is no direct connection between non-violence and persuasion.

36 - Jenny Percival, "Climate Activists Held after Stansted Runaway Protest", *The Guardian*, December 8, 2008.

37 - Thus, I am not defending a form of paternalistic intervention into others' choices. In paternalism, a person's choices are determined *for that person's own interest* (e.g. when the

just mentioned, passengers who suffered delayed flights as a result of the protesters' action may justifiably be angered at that disruption: however, upon realising why the protesters have gone that far in denouncing the risk of climate change, they may also appreciate the seriousness of that issue.³⁸ Hence, they may or may not be persuaded by the disobedients' message, or they may want to know more before deciding whether to join them in demanding better environmental policies: the point is that those citizens, whose freedoms have been deliberately infringed upon by the protesters, can still choose whether or not to accept the disobedients' plea. The use of force is instrumental, in this sense, to support the communicative enterprise, yet it does not go as far as coercing the addressee to accept the protesters' view.³⁹ In this sense, the addressees are also respected as ends in themselves.

It may be pointed out that it is unclear why the protesters should use force at all. Granted they may want to communicate their concern about a possible injustice, they should do so in ways that breach neither others' freedom nor the law. In reply, civil disobedience is usually considered a last resort, to which citizens could turn after other (legal, non-violent) measures have been tried. Furthermore, a lot hinges on the seriousness of the issue: acts of civil disobedience are usually warranted in presence of a sincere and conscientious belief about a serious risk of injustice in the legal system. The onus is on the disobeying agent to assess whether circumstances warrant engaging in a non-legal form of protest.⁴⁰

I argue that, in some cases, citizens address others in forceful ways *in order to* treat them as autonomous agents. We can phrase this even more strongly: under some circumstances, *it is a requirement of civility to do so*. That is to say, a failure to fully engage others in the communicative enterprise (e.g. by addressing them in ways unlikely to be acknowledged, e.g. through legal protest) may represent a failure to treat them as "subjects" rather than "objects". As stated in section 1 above, restraint in public discussion (i.e. refraining from openly stating one's own view) might involve a form of disrespect for others. When others lack motivation for engaging in a communicative exchange on important matters concerning the political community, adopting a performative attitude may require the addresser to force the addressee to engage in such an exchange. Under such circumstances, the use of a degree of force as part of the communicative act may not be deemed uncivil: rather, it may be part of what it means to treat others as ends in themselves, i.e. with the due respect for their status as autonomous agents. An act of disobedience, therefore, may

addressee falls prey to "false consciousness"). In the view I defend, a person's choices are not determined, because he remains free to endorse or reject the other person's claim.

38 - This is what I referred to as "intention 3" above.

39 - This argument builds, to some extent, on what Kimberley Brownlee describes as the "dialogic condition" a conscientious act of communication must fulfil. See Kimberley Brownlee, *Conscience and Conviction...*, *op. cit.*, pp. 41-46.

40 - It may be argued that civility requires the capacity to assess whether the situation warrants illegal protest.

well remain *civil* even if the protesters employ a degree of force in the attempt to engage others in a communicative exchange.

Bossnapping

In this last section, I return to the case of bossnapping I presented in the opening section. My goal is to show that, notwithstanding the obvious use of force involved in this form of protest, there may be instances of bossnapping that are compatible with the account of *civil* disobedience I discussed above. Once again, I do not intend to commend this practice, which remains morally controversial: my aim is simply to highlight difficulties in drawing a clear line between civil and uncivil conduct.

In order to assess whether bossnapping is *uncivil*, we need to consider whether it can satisfy the Kantian proviso about treating others as ends in themselves. We cannot deny the inherently aggressive nature of bossnapping, which involves keeping an individual prisoner, against his will, to force him to listen, and possibly yield, to the workers' demands. In this sense, bossnapping seems to fall short of satisfying the Kantian proviso discussed in section 2, by treating the employer merely as a means to further the workers' ends. However, the discussion above should raise scepticism about this idea: there is a sense in which, at least in principle, the workers do not treat the boss merely as a means to their own ends. By forcing him to *acknowledge* their requests, they may still treat him as an autonomous agent, who can be engaged in a rational exchange towards mutual understanding (in Habermas' sense). Let me clarify this claim.

First, many cases of bossnapping are inherently coercive, involving threats and possibly even physical violence. The workers may have no desire to engage their employer in a rational exchange, or to display a performative attitude; given the dramatic circumstances they face (i.e. unemployment), their only goal might indeed be to force him to do what they want. They may decide to "detain" their employer until he finally yields to their requests; they may even threaten to visit physical harm upon him, e.g. by withdrawing the provision of food and water until he accepts their demands. Similar cases of bossnapping fall outside the scope of my paper, since they could not (and should not) be defended as compatible with the requirements of civility. However, this does not show that bossnapping *per se* is uncivil: once again, we need to look at the specific circumstances and modality of the act. We may conceive of cases of bossnapping that lack the coercive elements mentioned above. The workers would still lock the employer into his office, to force him to listen to their grievances and to work towards a possible compromise; yet, they would take all measures to minimise the undeniable stress such situation would cause to him. They may express their regret and apologise to him for having to resort to such an intrusive form of protest, explaining that, under the specific circumstances, they have had to turn to bossnapping as the last measure, to draw attention to the seriousness of the situation. Similar cases would be closer to

the account of civility I spelled out above because, despite the major infringement upon the employer's freedom, they might not hamper his autonomy, i.e. his capacity to make uncoerced choices. As I discussed above, the kidnapped employer preserve his right to accept or reject the workers' proposition.

By the same token, the employer might come to understand that what, for him, constitutes a mere issue of efficiency, has momentous implications for the lives of the workers and their families. The workers might succeed in persuading their employer that there is room for compromise, that the impact these dismissals will have on the workers' lives would be disproportionate to the benefit for the company, that the dismissal is indeed unfair, and so on.⁴¹ The employer may at least be willing to rediscuss the terms of the dismissal. In fact, we would expect this to happen, if workers and employers were displaying a *performative attitude*.

How much force would be permissible in a civil act of bossnapping? Could the workers kidnap their employer on his way home, or drug him while he is at work, and then "detain" him? Could they kidnap one of the employer's friends or relatives, so to force the employer to listen to the worker's grievances? Similar questions apply to traditional civil disobedience as well, for there is no magic formula to quantify what the agents could and could not do without looking at the specific circumstances. That said, as I already discussed above, the bossnappers remain morally bound by a duty of care, requiring them to use the amount of force that is strictly necessary, under the circumstances. In cases where the stakes are extremely high, and there is no way for them to access the employer's office, the workers may devise other strategies to finally face him, keeping the focus on the employer's own well-being. Also, the workers should consider the impact that more extreme forms of kidnapping would have on public opinion, since they would risk alienating support from other citizens, if they were to employ a serious amount of force. For example, kidnapping someone else, in order to force the employer to listen to the workers' grievances, would fail to satisfy the Kantian proviso, for it would treat the kidnapped person merely as a means.

My argument does not hinge on the idea that the employer is morally at fault. I am not claiming that, since the employer has supported unjust policies that, in turn, have exposed the workers to an undue risk of harm (through unemployment), he is now liable to being kidnapped. I am not arguing that the employer is somewhat culpable, hence has forfeited his right against undue interferences. On the contrary, I contend that the employer preserves his right to be treated as an autonomous person in a deliberative exchange, regardless of whether the policies he is promoting are just. This is not an argument about the specific content of each party's claims, but rather about how parties should approach each other in the face of disagreement over crucial issues. *It may well*

41 - A similar scenario occurs in Hans Weingartner's movie *The Edukators*, in which three young anti-capitalist protesters kidnap a millionaire, to protest about social inequality. During the imprisonment, the millionaire begins to empathise (though only temporarily) with the motives behind their act.

be the case that the employer is right, and the workers are wrong: still, if the latter thought their views had received insufficient attention in the decision-making process, and if they found no viable alternative, their resort to bossnapping may still be compatible with the requirements of civility. It may even occur that, by resorting to bossnapping, the workers get to finally accept that the changes imposed upon them, though onerous, may be justifiable.

Finally, it remains an open question what the workers should do were the employer unwilling to discuss the matter further. Despite being imprisoned in his office, and possibly even as a result of that, the employer may refuse to listen to the workers' concerns. On the one hand, he has no pro tanto duty to listen to the workers: he may be doing nothing wrong in refusing to further discuss matters because, as an autonomous agent, he has the right to do so. What should the workers do then? Once again, this same problem applies to many cases of traditional civil disobedience, when the protesters' demands are not accepted. In such cases, agents are faced with the choice either to accept the decision, hence returning into the realm of *legal* protest, or to escalate the situation, should they think that the stakes are too high. In the latter case, they would move outside the realm of civil disobedience (perhaps rightly so, depending on the circumstances), so my argument may no more apply.

The point remains that the mere infringement of someone's liberty, as in some cases of bossnapping, may not suffice to establish the act's incivility. Without looking at the specific circumstances, we may not be able to assess whether forcing others to act against their own will would fail to treat them with the appropriate respect for their status as autonomous.

In conclusion, once we grant that a degree of force may be employed, under some circumstances, in an act of civil disobedience, we may come to look differently at conduct which, at first glance, appears to be anything but "civil". Addressing others in ways that breach their freedom, with the aim to force them to engage with us in a rational exchange, may at times be the only way to fulfil our duty to treat them as ends in themselves. Doing less than that may constitute a failure to discharge such duty. Even acts of "bossnapping", under some circumstances, may display the agent's civility.

AUTHOR

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ABSTRACT

Is Bossnapping Uncivil?

In this paper, I discuss the practice of “bossnapping” (i.e. “kidnapping the boss”), a form of protest made famous by French workers during the Global Financial Crisis. I argue that, despite its inherent violent nature, bossnapping bears some analogies with the practice of civil disobedience. By focusing on a conception of civility as a disposition to respect others as autonomous agents, I claim that bossnapping may, under some circumstances, reveal the agent’s “performative attitude”, and constitute a persuasive, rather than a coercive, form of address. It is not my aim to commend or encourage bossnapping, which remains morally controversial: rather, the goal of this contribution is to foster academic debate around the concept of civility.