

From Resistance to Revolution: The Limits of Nonviolence in Arendt's 'Civil Disobedience'

Caroline Ashcroft

Queen Mary University of London

caroline.ashcroft@cantab.net

Abstract:

Arendt's work on civil disobedience sets out an optimistic portrayal of the possibilities of such forms of action in re-energizing the spirit of American politics in the late twentieth century. Civil disobedience should not simply be tolerated, she argued, but incorporated into the legal structure of the American political system. Her work is usually seen to promote an idea of civil disobedience that is thus bound to existing constitutional principles and essentially nonviolent. However, by looking at Arendt's discussion and critique of various practices of civil disobedience in 1960s and 1970s America, specifically in relation to the nonviolence movement influenced by Martin Luther King, and on the other side, the more militant Black Power movement, a different idea of civil disobedience emerges. This paper argues that whilst, for Arendt, civil disobedience within America certainly possesses the constitutionally restorative potential she assigns to it, in a broader sense – theoretically, globally, and even in terms of alternative ideologies within America – her conception of civil disobedience is in itself neither necessarily constitutional, nor nonviolent. It is, instead, a form of revolutionary action, whose limits are set only by politics itself, and specifically, Arendt's criterion of publicity.

Keywords:

Hannah Arendt, Civil Disobedience, America, Publicity, Martin Luther King, James Forman

From Resistance to Revolution: The Limits of Nonviolence in Arendt's 'Civil Disobedience'

1. The Legitimacy of Civil Disobedience

Hannah Arendt famously saw in civil disobedience a means by which to reenergize the American political system: to restore to it its original spirit through the political actions of the people. Her 1970 essay 'Civil Disobedience' argues that not only is civil disobedience a legitimately political form of action, but that it can even support the legal framework of a state, by ensuring that the link between the people's consent and the law is maintained over time (even as civil disobedients reject and act against *specific* laws). For Arendt, civil disobedience is an essentially political act – a public, group act rather than acts of individuals. Its public nature defines and legitimises civil disobedience. However, whilst 'Civil Disobedience' predominantly focuses on the positive potential for this type of action, Arendt was more ambivalent about the reality of civil disobedience in American politics, and further afield. This article thus asks the question: if civil disobedience is justified or legitimised in the way Arendt suggests it might be, how might we distinguish illegitimate forms of civil disobedience from legitimate forms – a distinction which Arendt herself appears to make in her commentary on the various protest movements in American politics.

The distinguishing characteristics of Arendt's idea of civil disobedience have generally been considered to be, first, its intrinsic connection to some system of law, and, second, the rejection of conscience as the legitimising feature of civil disobedience. These two aspects set her depiction apart from most other understandings of civil disobedience. In addition, Arendt's idea of civil disobedience is usually described in terms of some more commonplace features, namely the restriction of civil disobedience to acts of nonviolence. This article will propose a rather different interpretation, through a comparison of Arendt's understanding of civil disobedience in practice, drawn from her comments on those forms of civil disobedience that she considers to be politically beneficial and legitimate, versus those she considers to be more problematic and in certain respects even antipolitical. By analysing Arendt's understanding of the American nonviolence protest movement led, most notably, by Martin Luther King, as contrasted with her critique of the Black Power movement, an impression of what civil disobedience *is* and *is not* becomes more sharply defined. It therefore enables a clearer understanding of the legitimate limits of civil disobedience, and how that can be

differentiated from both illegal and unpolitical action. Through this analysis, this paper seeks to show that neither law nor nonviolence are essential to civil disobedience as Arendt sees it (although certainly not irrelevant), and that it is, rather, a form of revolutionary action. It is however the case, for Arendt, that in the United States, the purpose of such action can be fulfilled *within* the existing structures of politics and civil disobedience therefore does not need to reach its most extreme realisation in revolution and the creation of a wholly new political structure. Arendt's understanding of civil disobedience is therefore, I propose, far more radical than commonly suggested, and is defined and legitimised not by its constitutionality but by its foundational relationship to political action, which is, in addition, the only thing that can ultimately define what is and is not justified in activities such as those undertaken by civil disobedients.

In 1970, as Arendt wrote her essay on the question of civil disobedience, American society was facing a crisis of rising criminality and violence.¹ The 1960s had, of course, been a decade of popular protest over, most notably, civil rights, racial inequalities, and the Vietnam War. Yet in the latter years of that decade, what had formerly been a largely nonviolent protest movement, turned increasingly violent. Amidst this backdrop, Arendt sought to answer the question of whether acts of civil disobedience might ever be understood as compatible with the law in the United States, and how one might distinguish 'civil disobedience' from acts of mere criminality. Her answer was provocative and novel. Genuine civil disobedience is defended by Arendt as a truly political act, and one which is in accordance with the law – or at least, the spirit of the law – in the American republic. Civil disobedience is, as such, not something to repress or punish (as the Johnson and Nixon administrations had attempted), nor even something that should merely be tolerated, as Rawls, for example, suggested.² Rather, civil disobedience, as a legitimate political act, fundamentally in accord with the spirit of the American Constitution, should be embraced as a positive force for change, Arendt argues. She asks whether there might not be a space for civil disobedience to be incorporated more fully into the institutions of the United States, and argues that this would be a positive good for American politics.³ Acceptance and approval of

¹ National Commission on the Causes and the Prevention of Violence, *To Establish Justice, to Insure Domestic Tranquility* (Washington DC: US Government Printing Office, 1969).

² John Rawls, 'The Justification of Civil Disobedience,' in *Arguing About Law*, ed. Aileen Kavanagh and John Oberdiek (Oxford: Routledge, 2009), 244-253.

³ Hannah Arendt, 'Civil Disobedience,' in *Crises of the Republic* (New York: Harcourt Brace Jovanovich, 1972), 49-102.

civil disobedience as part of the legitimate legislative process in the United States marks out Arendt's work as unusual, if not unique, on this particular question.

Politically motivated disobedience to the law, of the kind seen in America in the 1960s, arises, Arendt explains, 'when a significant number of citizens have become convinced either that the normal channels of change no longer function and grievances will not be heard or acted upon,' or when the government 'has embarked upon and persists in modes of action whose legality and constitutionality are open to grave doubt.'⁴ American civil disobedience has been motivated by both of these factors, she argues, citing the war in Vietnam and America's illegal incursions into neighbouring Cambodia, the influence of secret agencies on public affairs, threats to the liberties enjoyed under the First Amendment to speech, assembly, and a free press, and attempts to deprive the Senate of its proper constitutional powers.⁵ These accumulated actions fulfilled both the causes which Arendt identified as motivators of civil disobedience: the American government was acting illegally and unconstitutionally, whilst at the same time, official means of expressing disapproval or realising change had become ineffective. The government had become deaf to the demands of the people, thus civil disobedience in America – or at least some forms of civil disobedience – took on what Arendt considered to be a properly political and legitimate role, an action taking place outside existing, but inadequate or ineffective, legal channels, and in opposition to existing law and its practice, but undertaken in order to restore politics to its constitutional principles.

However, it is ultimately not the cause but the nature of the action itself that determines whether civil disobedience is legitimate. This can be seen in Arendt's consideration of the question of how acts of (legitimate) civil disobedience can be distinguished from mere illegality. She rejected the idea that civil disobedience could be marked out as an undertaking of conscience, that is, that a civilly disobedient act could be differentiated from a criminal act through the belief of the agent that they were committing a 'good' action. 'The rules of conscience hinge on interest in the self,' Arendt writes. 'They say: Beware of doing something that you will not be able to live with... The political and legal trouble with such justification is twofold. First, it cannot be generalized; in order to keep its validity, it must remain subjective.'⁶ Subjective, individual morality could not legitimate illegal acts (although

⁴ Ibid., 74.

⁵ Ibid., 74-5

⁶ Ibid., 64.

they might motivate such acts). Because conscience, the individual sense of justice, is wholly subjective, it cannot legitimately act for or represent a political community. Therefore, neither the justice of the ends sought by disobedients, nor the intentions of the individuals taking part captured the essence of civil disobedience, she argued, and the nature of civil disobedience is misconstrued by analysing it in these terms.⁷ ‘Whenever the jurists attempt to justify the civil disobedient on moral and legal grounds,’ she writes, ‘they construe his case in the image of either the conscientious objector or the man who tests the constitutionality of a statute.’ Yet, she makes the point that ‘the situation of the civil disobedient bears no analogy to either for the simple reason that he never exists as a single individual; he can function and survive only as a member of a group.’⁸ Most defences of civil disobedience therefore, fail to grasp the actual nature of civil disobedience, that it is enacted by groups, not individuals.

Instead, Arendt’s answer to how to distinguish civil disobedience from criminality rests upon her strongly republican understanding of the political sphere, as set out most explicitly in her earlier work, *The Human Condition*.⁹ It is the *public* nature of civil disobedience that defines it as a political and thus legitimate act of power. Although the civil disobedient ‘is usually dissenting from a majority, [he] acts in the name of and for the sake of a group; he defies the law and the established authorities on the ground of basic dissent, and not because he as an individual wishes to make an exception for himself and to get away with it.’¹⁰ This puts civil disobedience beyond the realm of criminality, Arendt writes, because unlike the criminal, who seeks to avoid his deeds (or at least his authorship of such actions) becoming public, the civil disobedient is openly defiant and relies upon publicity for his ends.¹¹ The criminal, in contrast with the disobedient, does not ‘dissent’ from the law, he simply seeks to evade it, and thus seeks out invisibility not publicity. This publicity must be ‘the primary condition for all attempts that argue for the compatibility of civil disobedience with law and the American institutions of government,’ Arendt claims.¹² While she notes that civil disobedience is often inspired by a sense of justice within the individual, her claim is that in the process of its enactment, civil disobedience becomes something else that cannot be analysed merely in terms of the individual or in terms of ‘justice’ itself, but which is characterised by its public

⁷ Ibid., 55.

⁸ Ibid., 55.

⁹ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998).

¹⁰ Arendt, ‘Civil Disobedience,’ 76.

¹¹ Ibid., 75.

¹² Ibid.

nature.

Thus, civil disobedience is defined by publicity in three interconnected ways. First, in practical terms, civil disobedience is only effectively carried out by groups. It must therefore be pluralistic, that is, it must engage multiple actors around a cause. Yet they need not form a majority of the wider political community, and in fact, Arendt's portrayal of political action as something that requires great personal courage to take part in suggests that civil disobedience is only ever likely to be carried out by a small number of the people, at least in the initial stages of the action. Secondly, those causes themselves must be publicly oriented, that is, a cause that is supported not for reasons of personal interest, but for what the disobedient group believes to be the public good. Finally, publicity understood as visibility is a precondition for civil disobedience as distinguished from criminality. Civil disobedience must in Arendt's terms be: *by* the public, but not necessarily the whole public or even a majority; *for* the public body as a whole; and *seen* by the entirety of that citizen body or at least potentially visible to all.

These three conditions of publicity produce civil disobedience's legitimation, through Arendt's idea of power – of acting together – and its connection to politics. 'Power is actualized,' she writes, 'only where word and deed have not parted company, where words are not empty and deeds not brutal, where words are not used to veil intentions but to disclose realities, and deeds are not used to violate and destroy but to establish relations and create new realities.'¹³ Power is, explicitly, not the same as, nor can it be reduced to, physical force or violence, but is properly defined as the expression (i.e. the acting out) of the discourse that emerges between citizens in political communities, whereby individuals mutually share their perspectives and opinions. What matters about power, Arendt believes, is that this practice, peculiar to political action, is the sole means of legitimising political authority, with its value arising from its unique position as the space in which people 'recognise' one another – the source of individual identity as well as political identity in the interplay of opinions that is produced. For Arendt, power legitimises political action because this space is where humans may realise themselves in their highest guise as plural – which is to say they are both equal and different persons sharing a world – and where they may realise their potential for natality, to create, to start anew, through their interactions with one another. Thus, for Arendt, the

¹³ Arendt, *The Human Condition*, 201.

fundamentally public nature of civil disobedience is what *may* ultimately legitimise it as a political act, although this paper will highlight that it is not necessarily the case that *all* forms of civil disobedience are thereby legitimised.

2. The Constitutionality of Civil Disobedience

Thus, civil disobedience can be understood as legitimately political action. This is one of the key claims Arendt seeks to defend in her essay on civil disobedience. However, there is a second aspect of her defence: her argument that civil disobedience may in fact not only be political and thus legitimate, but may also be in accordance with the law. Given that the essence of civil disobedience is an unwillingness to accept or obey laws, and the willingness to actively break laws in pursuit of some cause, this is a rather remarkable claim, as many writing on her work have recognised. Civil disobedience, Arendt argues, is ‘primarily American in origin and substance,’ and it is precisely because civil disobedience is so characteristic of the American political sphere that it might be incorporated into the country’s institutional and legal framework.¹⁴ Acts of civil disobedience in America, she writes, while ‘not, perhaps, in accordance with its statutes, [are] in accordance with the *spirit* of its laws.’¹⁵

Arendt argues that because the American republic was founded on a horizontal social contract that was premised upon a recognition of the constituting power of the people, rather than a command-obey authority structure (which Arendt believed to be so problematically dominant in other political systems), the consent of the people was embedded in the American understanding and practice of government. But consent – especially that which is almost always tacit – is not true consent unless there is the possibility for dissent. Fundamentally committed to consent, the American republic was therefore necessarily equally committed to the possibility for dissent. Civil disobedience, as a form of dissent, is thus quite consistent with the *spirit* of the Republic and its constitution. Dissent is thus ‘the hallmark of free government,’ Arendt asserts.

One who knows that he may dissent knows also that he somehow consents when he does not dissent. Consent as it is implied in the right to dissent – the spirit of

¹⁴ Arendt, ‘Civil Disobedience,’ 83.

¹⁵ *Ibid.*

American law and the quintessence of American government – spells out and articulates the tacit consent given in exchange for the community’s tacit welcome of new arrivals, of the inner immigration through which it constantly renews itself.¹⁶

In fact, civil disobedience as it emerged in the twentieth century was merely the most recent stage in a long history of American dissent. Specifically, drawing on Tocqueville’s writings, Arendt describes civil disobedience as a modern form of a much older pattern of voluntary association in America, and as such ‘quite in tune with the oldest traditions of the country.’¹⁷ Since the Mayflower Compact, she writes, ‘voluntary associations have been the specifically American remedy for the failure of institutions, the unreliability of men, and the uncertain nature of the future.’¹⁸ Whilst grave contemporary emergencies had ‘changed voluntary association into civil disobedience and transformed dissent into resistance,’ she was hopeful that the American republic ‘may still be in possession of its traditional instruments for facing the future with some measure of confidence.’¹⁹ Civil disobedience was seen by Arendt as not simply a legitimate form of protest but as a potential means for the *renewal* of American politics in the face of its many problems at home and abroad. In America, both the foundational act of political promising, that is, the act of social contracting, as well as acts of civil disobedience were driven by the same power. But it is important to note that this participatory notion of power stands in contrast to notions of democratic equality. Arendt explicitly rejects majoritarianism: it is not the case that a majority must act in order for their actions to be considered legitimate. Arendt points out that, in fact, most civilly disobedient groups are minorities. Yet as Jennifer Ring notes, whilst not typically democratic, there is still a ‘profound antielitism’ in Arendt’s politics.²⁰ ‘Her concept of political action,’ Ring writes, ‘is indeed broad enough to include the likes of the pariah – the maverick, the outsider, the real individual – as well as ordinary members of a political community, who should be respected for becoming involved in the life of the community, rather than regarded as lawbreakers.’²¹

¹⁶ Ibid., 88.

¹⁷ Ibid., 96.

¹⁸ Ibid., 102.

¹⁹ Ibid.

²⁰ Jennifer Ring, ‘The Pariah as Hero: Hannah Arendt’s Political Actor,’ *Political Theory* 19 no. 3 (August 1991), 433-452; 449.

²¹ Ibid., 449-50.

Yet if both the American revolutionary founding, and contemporary civil disobedience flow from the same source, what distinguishes one from the other, if anything? Those who have written on Arendt's discussion of civil disobedience have noted a connection, but most draw a clear distinction between civil disobedience and revolution through their apparently different relationships to law and violence. That is, they claim that, for Arendt, civil disobedience is, unlike revolution, respectful of the true 'spirit of the law' or the foundational constitution and furthermore, nonviolent. Thus, for example, Andreas Kalyvas writes that, for Arendt, civil disobedience is 'extrainstitutional but not anticonstitutional...based on the participatory practices of mobilization among free and equal citizens who decide to act collectively and directly... outside the confines and mediations of the instituted political system.'²² Kalyvas divides the constitutionally premised and justified form of civil disobedience that Arendt describes, from any form of true revolution. 'Civil disobedience is not a revolutionary constituent act and does not aspire to play this role,' he claims.²³ Civil disobedience 'leans on' the constitutional order, he writes; 'legality provides the conditions of possibility for illegality.'²⁴ The specific acts of illegality are undertaken to affirm the constitutional order 'on a higher normative level [in ways] that are not directly or explicitly prescribed in the original constitutional text but implied by its normative nature, revolutionary origins, and historical development.'²⁵ As such, 'Arendt's views on movements of civil disobedience could mediate between extraordinary and normal politics,' Kalyvas concludes.²⁶

Verity Smith echoes this sentiment when she writes that civil disobedience acts as 'the activity that best embodies the way we can hold together...the desire for limited constitutional government and the need for vital, active, and participatory contestation.'²⁷ Because a 'fear of undivided sovereignty' runs through Arendt's work, Smith explains, this leads Arendt to a particular form of constitutionalism. 'For Arendt, undivided sovereignty

²² Andreas Kalyvas, *Democracy and the Politics of the Extraordinary* (Cambridge: Cambridge University Press, 2008), 288.

²³ *Ibid.*, 290.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*, 288.

²⁷ Verity Smith, 'Dissent in Dark Times: Hannah Arendt on Civil Disobedience and Constitutional Patriotism', in *Thinking in Dark Times: Hannah Arendt on Ethics and Politics*, ed. Roger Berkowitz, Jeffrey Katz, and Thomas Keenan (New York: Fordham University Press, 2010), 105-112, 106.

brings about the erasure or collapse of the public space necessary for plurality and human diversity. This fear commits her to a constitutional framework for politics as well as to a constant contestation of the framework – not as a form of *disruption*, but, rather, as a kind of *conservation* of the framework.’²⁸ Arendt celebrates civil disobedience not merely as a ‘remedy to potential failures,’ but as a ‘politically enacted mechanism of amendment, and an ongoing process of constitutional interpretation.’²⁹ The necessity of civil disobedients’ acceptance of the ‘spirit of the laws’ is interpreted in constitutional terms, that is, while civil disobedients may disobey individual statutes, they cannot seek to overturn or reject the existing legal and political framework. Thus, ‘legality provides the conditions of possibility for illegality,’ for Kalyvas, while for Smith, ‘civil disobedience is not a fully revolutionary activity – in that such disobedient dissonance accepts the general legitimacy of the system of laws.’³⁰

Yet whilst much of the literature emphasises that Arendt’s notion of civil disobedience is subordinate to, or depends upon, a framework of legality and that those undertaking acts of civil disobedience accept the general legitimacy of that framework, if not its exact form, this is not universally accepted. J.M. Bernstein portrays civil disobedience as considerably more ‘revolutionary’: Civil disobedience, he argues, is structurally identical to revolution; the ‘analogue of revolutionary founding that occurs within the ordinary world of representative, constitutional democracies.’³¹ Since, political action, for Arendt, writes Bernstein, is essentially beginning, ‘and beginning is best exemplified by revolutionary founding, and founding finally is completed in the re-founding that is civil disobedience, then civil disobedience is the fulfilment of Arendt’s political doctrine.’³² He adds to this, ‘civil disobedience always concerns the constitutional order itself, referring to either to its augmentation or its restoration.’³³ However, this paper will argue, while civil disobedience may meet these criteria, it may also take on a much more revolutionary character than has usually been recognised.

²⁸ Ibid., 109.

²⁹ Ibid., 111-2.

³⁰ Kalyvas, *Democracy and the Politics of the Extraordinary*, 290; Smith, ‘Dissent in Dark Times,’ 106.

³¹ J.M. Bernstein, ‘Promising and Civil Disobedience: Arendt’s Political Modernism’, in *Thinking in Dark Times: Hannah Arendt on Ethics and Politics*, ed. Roger Berkowitz, Jeffrey Katz, and Thomas Keenan (New York: Fordham University Press, 2010), 115-130; 127.

³² Ibid., 115-6.

³³ Ibid., 127.

The second commonly noted distinguishing characteristic of Arendtian civil disobedience is nonviolence. Arendt's refusal to acknowledge violence as political, and her distinction between power and violence is well known, and shapes interpretations of her idea of civil disobedience.³⁴ Peg Birmingham, for example, writes that 'in the case of civil disobedience, revolutionary power is nonviolent, although it remains a violence that says, "No," by withdrawing from the institutions and practices that support legal and state violence.'³⁵ Tal Correm contrasts Arendt with the post-colonial theorist of violent rebellion, Franz Fanon, famously an object of Arendt's criticism. Unlike Fanon, for Arendt, violence is a perilous, 'irreversible and unpredictable' course of action, leading irrevocably to more violence, rather than a better world.³⁶ And Joan Cocks writes that, 'one of Arendt's aims in *On Violence* is to discredit thinkers, and above all Fanon, who embrace bloodshed as either an inescapable element of politics or as a positive good.'³⁷ Arendt believes, Cocks writes, that it 'always is possible and almost always desirable to forswear the use of "violence."'³⁸

3. Against Militarism and Nonviolence: Arendt's Critique of the Civil Rights Movement

Arendt's essay on civil disobedience offers a defence of the possible legitimacy, and moreover, the necessity of the practice of civil disobedience in the American republic. Because the constitutional base, or principle, of American politics is consent, and because true consent requires the possibility of dissent, civil disobedience must be legitimate in some sense and in some cases. Furthermore, because both practices of law and governance shift over time, tending to move away from the founding 'principle,' civil disobedience can be a positive force for good, bringing law back into alignment with that principle. With the world changing at an unprecedented rate, she believed, politics and law must of necessity also

³⁴ Arendt, 'On Violence' in *Crises of the Republic*, (New York: Harcourt Brace Jovanovich, 1972).

³⁵ Peg Birmingham, 'On Violence, Politics, and the Law,' *The Journal of Speculative Philosophy* 24 no. 1 (2010), 1-20; 9.

³⁶ Tal Correm, 'Ethics Beyond Struggle: Fanon, Gandhi, and Arendt on Violence, Politics, and Humanism,' *Listening* 50 (Winter 2015), 21-37; 27.

³⁷ Joan Cocks, 'On Commonality, Nationalism, and Violence: Hannah Arendt, Rosa Luxembour, and Frantz Fanon,' in *Women in German Yearbook* (Lincoln and London: University of Nebraska Press, 1996), 39-52; 32.

³⁸ *Ibid.*, 44.

evolve. The law cannot change itself, she argues, and it is a misconception to believe it can do so. ‘The law can indeed stabilize and legalize change once it has occurred, but the change itself is always the result of extra-legal action...[e.g.] the Supreme Court has the right to choose among the cases brought before it, and this choice is inevitably influenced by public opinion.’³⁹ In the United States, therefore, civil disobedience can be in accordance with law, and even necessary for the continued relevance of law to contemporary issues and attitudes. However, it is also true that Arendt does not thereby seek to legitimate *all* acts of civil disobedience, such as the civil disobedience carried out by Black Power movements in the United States towards the end of the 1960s, towards which she has an attitude which is fearful and scathing in equal measures. Yet it is much less clear what might *delegitimise* such acts of civil disobedience and where the boundary between legitimate and illegitimate civil disobedience lies.

Arendt, it has been noted, while broadly positive of the civil rights movement in America, had a tendency to downplay the role of black protesters and organisers in the movement. Richard King highlights how, in one 1972 interview, Arendt paid tribute to the civil rights movement whilst,

...at the same time she seriously garbled the history of the civil rights movement by highlighting the alleged centrality of ‘students from Harvard, who then attracted students from other famous universities. They went to the South, organised brilliantly’...[but] there was no mention of the students in historically black colleges in the South who had actually been responsible for the sit-ins and voter registration drives that constituted the backbone of the Southern movement.⁴⁰

Arendt certainly shows an absence of historical understanding here, yet while she understated the influence of black involvement in the civil rights movement in this respect, many of her comments on the involvement of black protesters in various protest movements over the 1960s reflect and reveal her understanding of civil disobedience. For that reason, the rest of this paper will compare Arendt’s understanding of civil disobedience with, first, the nonviolence protest movement, best exemplified by Martin Luther King, himself inspired by

³⁹ Arendt, ‘Civil Disobedience,’ 80.

⁴⁰ Richard King, *Arendt and America*, (Chicago: University of Chicago Press, 2016), 274.

Gandhi's teachings on political resistance, and secondly, a militant civil disobedience invoking racial separatism as a means to true justice and equality, as expressed by activists such as James Forman, whose ideas Arendt wholly rejected in *On Violence*.

Richard King notes that 'comments in [Arendt's] letters and essays during the 1960s indicate a general approval of Martin Luther King and of the civil rights movement's dismantling of political and legal discrimination.'⁴¹ And yet, Arendt criticised the premises of King's argument for civil disobedience, which claimed a personal right and duty to pursue justice according to one's conscience. On the other hand, Arendt was withering in her critique of the Black Power movement, and fearful of its potential impact on American society and politics. 'Black racism, so blatantly evident in James Forman's "Manifesto,"' she writes, 'could, of course, provoke a really violent white backlash, whose greatest danger would be the transformation of white prejudices into a full-fledged racist ideology for which 'law and order' would indeed become a mere façade.'⁴² And yet, I will argue, for Arendt, it is neither its failure to respect constitutional law nor even its violent tendencies that really puts Forman's ideology beyond the pale, but its non-public and thus non-political character. A comparison of Arendtian civil disobedience with these types of civil disobedience offers insight into how she understood the relationship between civil disobedience and the law, as well as civil disobedience and violence, revealing her notion of civil disobedience to be considerably more expansive than is often recognised, whilst at the same time, firmly delimited according to certain principles.

4. Martin Luther King and Nonviolence

The 1950s and the early to mid-1960s, saw the development of the black civil rights movement and its characteristic adoption of nonviolent, but often extremely disruptive, political tactics. Sit-ins, voter registrations, boycotts and protests raised the issues of ongoing racism in the lives of (mainly) Southern black Americans, often to great effect, often with great courage in the face of threats, imprisonment, or bodily violence (either by law enforcement, or overlooked by them). Martin Luther King was, of course, the greatest active proponent of this idea of nonviolent civil disobedience in America, and the voice of the

⁴¹ Richard King, 'American Dilemmas, European Experiences,' *The Arkansas Historical Quarterly* 56 no. 3, (1997), 314-333; 330.

⁴² Arendt, 'On Violence,' 103-198; 174.

movement. While civil rights protests and boycotts in the South predated King's involvement, his influence as a charismatic champion of nonviolent civil protest on the direction of the movement was substantial in the late 1950s and early to mid-1960s. From the arrest of Rosa Parks and the Montgomery Bus Boycott in 1955, which, besides making a general statement on the unacceptability of segregation, aimed at causing economic damage to segregationist businesses, through to the more confrontational but still nonviolent Birmingham action, aimed at provoking mass arrests of protesters in 1963, to his much less successful attempts to bring his protest movement to the North such as in the attempted Chicago protests on 1966 (halted in the face of likely rioting), King was the voice, and certainly the spiritual leader, of a movement that was however much larger than him.

The civil rights organisation founded by King in 1957, the Southern Christian Leadership Conference (SCLC) spawned the youth-led Student Nonviolent Coordinating Committee (SNCC), one of the most influential civil rights organisations of the 1960s. King popularised the forms of action – economic, social, and political – that would shape the face of the civil rights movement for a decade. His influence spread beyond the South, and beyond racial boundaries. From 1960, the SNCC 'had become a magnet for white student radicals.'⁴³ The modus operandi of King became that of student protesters across America, when in 1964, the Berkeley campus protests (having drawn on King's tactics) became the prototype for campus revolts, using nonviolent but highly disruptive means such as picket lines, sit-ins, or teach-ins.⁴⁴ While free speech and the democratisation of universities were the focus of these protests initially, from the spring of 1965, the Vietnam War became the key catalyst for student protests.⁴⁵

Yet while King's nonviolent methods dominated political protest up to the middle of the 1960s, the last four years of the decade saw a shift to a more violent protest movement, represented, for example, by groups such as the Black Panthers.⁴⁶ The reasons for this shift can be attributed to a wide range of aspects: a sense of frustration amongst those within the civil rights movement that their aims had not been met; a sense of political powerlessness; the

⁴³ Gerd-Rainer Horn, *The Spirit of '68*, Oxford: Oxford University Press, 2007, 58.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ August Meier and Elliot Rudwick, eds., *Black Power in the Sixties* (Chicago: Quadrangle Books, 1970).

changing response of successive US administrations towards the protesters; and the rise of ideologies of violent resistance. Thus, whilst protest movements had achieved significant results in terms of desegregation, racism was still rampant, whilst the expansion of civil opposition to the Vietnam War had seemingly achieved little. Despite the fact that public opinion had decisively turned against the war by the late 1960s, it was not only still in full force, but escalating. ‘The building frustration bred feelings of desperation in many circles,’ Tom Wells writes. ‘The frustration was greatest amongst younger protesters, many of whom lacked understanding of how much hard work was required to bring about political change...Few activists fully appreciated the potential political power they possessed.’⁴⁷ And whilst protests by those opposing racism in the early 1960s rarely became violent or riotous, where they did, the federal response was ‘liberal,’ emphasising socioeconomic reforms as the solution.⁴⁸ Yet these reforms failed to achieve the comprehensive redistribution of power that was required.⁴⁹ In contrast, James Button notes, ‘the violence-filled period from 1967-1968 saw the steady evolution of the Johnson Administration’s attitude from one dominated by a “transitional” view and prevention-oriented responses to one increasingly reliant upon strong military and police forces to suppress rioters.’⁵⁰

The ideological background to the changing nature of the protest movement in America was varied, from the revolutionary black nationalist writings of the religiously motivated Malcolm X, assassinated in 1965, to Franz Fanon’s secular writings arguing for the necessity of revolutionary violence in post-colonial struggles. A commitment to nonviolent civil disobedience increasingly gave way to ideologies and practices of attempted revolutionary violence, with protesters as committed to the violent attainment of their cause as nonviolent protesters had been to theirs. King, in turn, rejected such ideologies wholesale, as did Arendt. And although it should be said that this ‘movement’ was much more ideologically heterogenous than the King’s nonviolence creed, its manifestation and justification certainly shared core principles that placed it at odds collectively with the earlier civil disobedience movement in a number of ways.

⁴⁷ Tom Wells, ‘The Anti-Vietnam War Movement in the United States,’ in *The Vietnam War*, ed. Peter Lowe (London: Macmillan, 1998), 115-132; 131-2.

⁴⁸ James Button, *Black Violence* (Princeton: Princeton University Press, 1978), 158.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, 161.

King's justification for civil disobedience was based on an ethical-religious code which echoed that of his most important intellectual influence, Gandhi, though supported in King's case by his Christian faith. Gandhi's influence can be seen both in King's methods of organisation as well as his justification for civil disobedience, his uncompromising demand for nonviolent action, and his understanding of how such action might achieve success. The political intent behind King's approach to civil disobedience was to create 'tension' through nonviolent but often illegal protest action, that is to raise the prominence of issues in such a way that they demand resolution. It seeks to 'create a crisis,' he wrote, in his famous *Letter from Birmingham Jail*, so that 'a community which has constantly refused to negotiate is forced to confront the issue...I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth.'⁵¹ His justification for illegality appeals to a higher law: 'One has not only a legal but a moral responsibility to obey just laws,' he argues. 'Conversely, one has a moral responsibility to disobey unjust laws.'⁵² This personal moral responsibility firmly trumps any legal duties of responsibility that might exist. Furthermore, he writes, he does not advocate evading the law, as 'that would lead to anarchy.'⁵³ Rather, he argues:

one who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.⁵⁴

Yet, regardless of the justice of one's cause, nonviolent means alone must be utilised, King believes, for practical reasons as well as moral ones. Violence only begets further violence, he claimed, it solves no problems while it 'creates new and more complicated ones'⁵⁵ The first principle in the civil disobedience movement is 'the idea that means must be as pure as

⁵¹ Martin Luther King, *Letter from Birmingham Jail*, 1963, accessed 14 June 2017: https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Martin Luther King, 'Nonviolence and Racial Justice,' [1957] in *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.*, ed. James Melvin Washington (San Francisco: Harper & Row, 1986), 7.

the end. The movement is based on the philosophy that ends and means must cohere...the end is pre-existent in the means.⁵⁶ The force inherent within King's conception of civil disobedience is a Gandhi-inspired idea of self-control and spiritual force. A refusal to engage in violent action is not cowardice, he writes, but rather a different kind of strength: the practitioner of nonviolent civil disobedience truly '*does resist*.'⁵⁷ Whilst the nonviolent resister does not use physical aggression, they are '*strongly active spiritually*.'⁵⁸ They aim to awaken '*a sense of moral shame in the opponent*' with the intention of provoking '*redemption and reconciliation*.'⁵⁹ Those taking part in the struggle against racial oppression must realise, King urges, that the tension is not between races, but against the '*forces of evil*' that some individuals are trapped in.⁶⁰

There is much shared ground between Arendt and King. Arendt's attempt to conceptualise the difference between violence and political power in terms of means and ends, and her emphasis of the importance of action in itself, is at least reminiscent of King's nonviolence. Connections can be drawn between King's nonviolence, and the process of provoking one's opponent to consideration, and Arendt's claims for the value of agonistic discourse in politics, and that both emphasise the essential quality of courage as the political trait *par excellence*. Both of these factors also necessitate that civil disobedience is public. Yet while both seem to promote a similar type of action in politics they do so for drastically different reasons, particularly in relation to their understanding of the relationship of law to civil disobedience, in terms of the source of law's legitimacy, and the extent to which the civil disobedient need accept the law.

While King makes his claims for civil disobedience on the basis of an appeal to a higher, God-given natural law, Arendt vehemently protests arguments made on the basis of claims to moral justice or an appeal to conscience. Such justifications are politically unsound, she argues, and leave us in a position where we are thereby unable to judge or indeed condemn any act labelled as civil disobedience. '*The political and legal trouble with such justification*

⁵⁶ Martin Luther King, 'Love, Law, and Civil Disobedience,' in *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.*, ed. James Melvin Washington (San Francisco: Harper & Row, 1986), 45.

⁵⁷ King, 'Nonviolence and Racial Justice,' 7.

⁵⁸ *Ibid.*, 7-8.

⁵⁹ *Ibid.*, 7.

⁶⁰ *Ibid.*

is twofold,' Arendt writes. 'First, it cannot be generalized; in order to keep its validity it must remain subjectivized. What I cannot live with may not bother another man's conscience. The result is that conscience will stand against conscience.'⁶¹ Because conscience is concerned with the self – what one may or may not be able to bear – its validity is necessarily subjective, and any attempt to bring principles of conscience into the public realm of plurality and claim objective right or truth for those principles is doomed to bring them into irresolvable conflict with the principles of others. Thus, she cites the 1969 National Commission report on justice and civil disobedience to make her point. 'If the decision to break the law really turns on individual conscience, it is hard to see in law how Dr King is better off than Governor Ross Barnett, of Mississippi, who also believed deeply in his causes, and was willing to go to jail.'⁶² Arendt's undoubted regard for someone like King, contrasted with Barnett, a white supremacist who brutally upheld racial segregation in Mississippi, shows not only the failure of arguments of conscience to provide any adequate means of judging upon civil disobedience, but the danger of appealing to this form of reasoning, which can be used in support of the most inhuman of actions.

Both King and Barnett, Arendt points out, were willing to face their punishment. They were willing to accept the courts' punishment as legitimate, despite deeply held objections to particular instances or applications of the law by state/federal governments. The willingness to accept one's punishment, or more importantly, to accept the authority of existing legislation and the judiciary is another common means of defining 'legitimate' civil disobedience, Arendt notes. She cites an example from a contemporary legal paper on the subject: 'The civil disobedient accepts while the revolutionary rejects, the frame of established authority and the general legitimacy of the system of laws.'⁶³ In this way, she explains, civil disobedience is sharply distinguished from revolution. And yet, she continues, this distinction 'so plausible at first glance, turns out to be more difficult to sustain than the distinction between civil disobedient and criminal. The civil disobedient shares with the revolutionary the wish 'to change the world,' and the changes he wishes to accomplish can be drastic indeed.'⁶⁴ Just consider, she argues, the example of Gandhi, 'the great example' of nonviolent civil disobedience, (in whose tradition of course King followed). 'Did Gandhi

⁶¹ Arendt, 'Civil Disobedience,' 64.

⁶² Ibid.

⁶³ Ibid., 77.

⁶⁴ Ibid.

accept the “frame of established authority,” which was British rule of India?’ Arendt asks incredulously. ‘Did he respect the “general legitimacy of the system of laws” in the colony?’⁶⁵ The implication here is clear. Of course, Gandhi did not accept the general legitimacy of British law or authority in India. In holding Gandhi up as an exemplar of the tradition of civil disobedience, Arendt is rejecting the necessity of the division between revolutionary and civil disobedient, and rejecting the claim that the civil disobedient must accept the general framework of existing constitutional law.

This closer comparison of Arendt’s understanding of civil disobedience against the tradition of King and Gandhi, thus reveals that against the interpretations of Smith, Kalyvas, etc., Arendt explicitly *rejects* the necessity of constitutionalism and the civil disobedient’s acceptance of constitutionalism. But in the context of her equally explicit rejection of conscience as a limiting factor in acts of civil disobedience, the problem arises that civil disobedience thereby seems to become *unlimited* in nature, that is, it appears to be both potentially revolutionary and unconstrained by existing law, whilst also not bound by any motivating force of conscience. By what criteria does Arendt thus judge acts of civil disobedience? One important feature that at least limits such action might be the means or methods by which the ends of civilly disobedient action are pursued. Both King and Gandhi famously pursued strategies that were explicitly nonviolent, and Arendt’s growing concern with civil disobedience as it developed in the later 1960s is certainly aligned with growing levels of violence in American protest movements. Yet if civil disobedience cannot be clearly distinguished from revolution, as I have sought to show here, the distinction between civil disobedience and violence also appears more diffuse, since revolution, Arendt writes, ‘is not even conceivable outside the domain of violence.’⁶⁶ This is not to suggest that violence is irrelevant, merely that its presence or absence alone cannot furnish an adequately clear definition of legitimate political action in her discussion of civil disobedience. Indeed, in her essay ‘On Violence’ she writes of the impotence of Gandhian-type strategies if confronted with enemies such as ‘Stalin’s Russia, Hitler’s Germany, even pre-war Japan,’ and the massacre and submission that would no doubt have taken place.⁶⁷ The Gandhian acceptance of nonviolence in the face of certain death was evidently not an approach that Arendt could possibly find acceptable. Instead, an examination of her specific concerns with the violent

⁶⁵ Ibid., 76-7.

⁶⁶ Hannah Arendt, *On Revolution* (Harmondsworth: Penguin, 1963), 18.

⁶⁷ Arendt, ‘On Violence,’ 152.

protest movements of the late 1960s reveals aspects other than either law or nonviolence that concretely restrict the extent and nature of legitimate civil disobedience in Arendt's framework.

It is well known that Arendt held firm, and often controversial views about aspects of the black civil rights movement. In her 1959 essay 'Reflections on Little Rock', she accuses black parents who wish their children to attend integrated schools of 'social climbing,' and of unfairly forcing their children into political conflicts from which they ought to be protected. In fact, this piece was initially rejected for publication, so contentious was it, only finally appearing in another journal with a disclaimer by the editors that it did not reflect the publication's own position. She was dismissive of attempts to make university education more accessible to black students and to diversify the curriculum (she contemptuously referred to such innovations as 'instruction in Swahili' in contrast to real or worthwhile reforms).⁶⁸ Her analysis of the increasing violence amongst civil disobedients places the blame firmly on black protesters. 'Serious violence entered the scene only with the appearance of the Black power movement on the campuses,' she wrote. 'Negro students, the majority of them admitted without academic qualifications, regarded and organised themselves as an interest group, the representatives of the black community. Their interest was to lower academic standards...violence with them was not a matter of theory or rhetoric.'⁶⁹ Arendt has been fiercely, and to some extent, justifiably criticised for the attitudes she expressed. 'It is clear that Arendt's account of Black student protests, violence, and the Black Power movement misses the mark when it comes to the negro question, and it is part of a pattern in Arendt of underanalyzing anti-Black racism coupled with a biased critique of violence,' writes Kathryn Gines.⁷⁰

However, while Arendt's analysis of these issues is not unproblematic, neither should her work in this area therefore be disregarded. Arendt offers, in some respects, a cogent account of the problems that movements such as Black Power posed for American politics, and, aside from any inherent value that such analysis may or may not possess, her critique of the Black Power movement illuminates her broader understanding of civil disobedience from the

⁶⁸ Ibid., 177.

⁶⁹ Ibid., 120.

⁷⁰ Kathryn T. Gines, *Hannah Arendt and the Negro Question* (Bloomington, Indiana: Indiana University Press, 2014), 122.

perspective of explaining what civil disobedience is *not*.

5. James Forman and the *Black Manifesto*

In her essay 'On Violence,' Arendt takes particular aim at James Forman, whose *Black Manifesto* represents for her many of the key problems of the Black Power movement. Forman, previously a leading member of the nonviolent protest student group the SNCC, became disillusioned with its more benign approach to civil disobedience. He briefly took a leadership role in the Black Panther Party before leaving to found his own organisation, the Unemployment and Poverty Action Committee. His *Manifesto* calls for black Americans to unite to liberate themselves from racism and capitalism through taking revolutionary control of the US government. 'Racism in the U.S. is so pervasive in the mentality of whites that only an armed, well-disciplined, black-controlled government can insure the stamping out of racism in this country,' he argues.⁷¹

'No oppressed people ever gained their liberation until they were ready to fight,' Forman writes, using 'whatever means necessary, including the use of force and power of the gun to bring down the colonizer...black people in this country must understand that we are the Vanguard Force. We shall liberate all the people in the U.S. and we will be instrumental in the liberation of colored people the world around.'⁷² It follows from the laws of revolution, he states, 'that the most oppressed will make the revolution.' Furthermore, he continues, 'not only are we the Vanguard, but we must assume leadership, total control.'⁷³ Forman thus proposes a political revolution, a fight 'against racism, capitalism and imperialism...dedicated to building a socialist society inside the United States.'⁷⁴ Power must be seized from the government, through 'armed confrontation and long years of sustained guerrilla warfare inside this country,' as well as an economic revolution, overthrowing the economic might of the 'racist, imperialist government' of America by destroying capitalism.⁷⁵

⁷¹ James Forman, 'The Black Manifesto,' *Africa Today* 16 no. 4 (1969), 21-25; 22.

⁷² *Ibid.*, 21.

⁷³ *Ibid.*

⁷⁴ *Ibid.*, 22.

⁷⁵ *Ibid.*, 21. The idea of using guerrilla warfare as a form of resistance, whilst part of the post- and anti-colonial literature that Forman evidently draws upon, also has a much older intellectual heritage, notably appearing in Clausewitz's *On War* [1832] (Princeton, New

Forman's 'Manifesto,' writes Arendt, 'reads like a classic example of...futile dreams.' Its content, she continues, 'to be sure, is half-illiterate fantasy, and may not be meant seriously. But it is more than a joke and that the Negro community moodily indulges today in such fantasies is no secret. That the authorities should be frightened is understandable.'⁷⁶ The introduction into the protest movement of not just violence but a new and problematic ideology drawn from the likes of Fanon, and even more so, Sartre, is outlined by Arendt. 'Who has ever doubted that the violated dream of violence,' she writes. But 'dreams never come true. The rarity of slave rebellions and of uprisings among the disinherited and downtrodden is notorious; on the few occasions when they occurred it was precisely 'mad fury' that turned dreams into nightmares for everybody.'⁷⁷ These forms of civil disobedience are not seen by Arendt as legitimate but instead 'fantasies' or 'dreams' driven by anger and desperation. What distinguishes this type of action from the civil disobedience she so lauds is not its relationship to law or acceptance of law, nor indeed is it its appeal to violence in and of itself, although the role of violence cannot be excluded. Rather, the central problem she identifies, that fundamentally delegitimises such forms of action, is its connection to race politics, as a form of 'natural' interest politics.

Nothing, she writes, 'could be theoretically more dangerous than the tradition of organic thought in political matters by which power and violence are interpreted in biological terms.' Organic metaphors, 'the notion of a "sick society," of which riots are symptoms...can only promote violence in the end.' When we talk in non-political, biological terms, Arendt argues, 'collective violent action...may appear as natural a prerequisite for the collective life of mankind as the struggle for survival and violent death for continuing life in the animal kingdom.' The danger of becoming carried away by such a metaphor, she continues, 'is particularly great where the racial issue is involved. Racism, white or black, is fraught with violence by definition because it objects to natural organic facts – a white or black skin – which no persuasion or power could change; all one can do, when the chips are down, is to exterminate their bearers.'⁷⁸

Jersey: Princeton University Press, 1976), in his discussion of the Spanish struggle against Napoleon's forces.

⁷⁶ Arendt, 'On Violence,' 190-1.

⁷⁷ Arendt, 'On Violence,' 123.

⁷⁸ *Ibid.*, 172-3

It is worth noting that while Arendt believes that race ‘interest’ is the most likely source of this kind of violence in America, due to its historical and persistent race inequalities, race is not the only source of such problematic political ideas. She uses parallel arguments and terminology when she discusses, for example, the attacks of the ‘masses’ on the nobility of the *ancien régime* in the French Revolution. Then, class interest – the poverty of the French peasants – took on the same inescapable character that she fears race might in America. The devastating violence of the Revolution, and the terror and despotism that ensued, reveals what happens when ‘interest’ subsumes true political action.

Race-relations in America, Arendt is keen to stress, are not at this stage. It is evidence, she suggests, of the fact that American politics is not yet riven by racist ideology, but rather, a less entrenched and thus less dangerous racial prejudice, that the earlier ‘highly successful civil-rights movement’ saw racial prejudices slowly yield in the South as acceptance of segregation waned.⁷⁹ Thus, she argues, ‘even today’s violence, black riots, and the potential violence of the white backlash are not yet manifestations of racist ideologies and their murderous logic.’⁸⁰ Whilst this assertion may seem somewhat surprising, it is worth considering what Arendt undoubtedly has in mind when she discusses ‘racist ideologies’: the ideological systems of the late nineteenth and early twentieth century European imperialists that reached their pinnacle in Nazi Germany, and which she analyses in *The Origins of Totalitarianism*.⁸¹ Yet, to seek to root political ideology in race, as Forman does, is nonetheless a step towards this most dangerous of situations – an attempt (albeit unlikely to be successful) at transforming race prejudice into a racist ideology that seeks to orient and transform American politics. In fact, she notes, ‘the greatest danger comes from the other direction; since violence always needs justification, an escalation of the violence on the streets may bring about a truly racist ideology to justify it.’⁸²

Thus, what is so politically dangerous and indeed, anti-political in Arendt’s terms about civil disobedience informed by Fanon’s principles, and understood and interpreted for America by the likes of Forman (amongst many others), is not violence in and of itself but rather violence

⁷⁹ Ibid.

⁸⁰ Ibid., 174.

⁸¹ Hannah Arendt, *The Origins of Totalitarianism* (London: Allen and Unwin, 1967).

⁸² Arendt, ‘On Violence,’ 174

combined with the kind of ideological thinking that reduces politics to natural attributes such as race. Violence might indeed result in such ideology becoming more persuasive, as frustrations rise and violence begets further violence. Yet what is ‘theoretically more dangerous’ about race-politics is the ideology itself. In terms of how this reflects on civil disobedience, it can thus be summarised that whilst civil disobedience is not necessarily defined by nonviolence nor by its adherence to constitutional law, Arendt does reject certain forms of civil disobedience such as those founded on race-politics and her basis for this can be found in her fundamental condition of civil disobedience: publicity.

As we have seen, for Arendt, acts of civil disobedience may be (and usually are) carried out by minorities. This does not stand in conflict with the principle of publicity, because publicity does not demand that all (or even a majority) take part, but rather that all can witness (and thus either reject or accept) the actions of the civil disobedients. Yet in addition to civil disobedience being *by* the people (or a subset of the people), and *visible to* the people, there is a further condition of publicity, as earlier outlined: that it must be *for* the wider body of the whole people. Political action premised foundationally upon race contradicts this condition, because it essentially denies the ‘other’ – some section of the people – the right to access the political realm. That is, interest based politics – whether that be that the interests of class, race or otherwise – denies the essential plurality and equality that Arendt insists is and must be the essence of the political. Race politics is the politics of ‘the social’ in Arendt’s terminology. The social realm is distinguished, she argues, by distinction and exclusivity – we choose, and are chosen by, the groups we wish to be part of – and who we wish to exclude. ‘What equality is to the body politic – its innermost principle – discrimination is to society.’⁸³ This is an inevitable reality of the contemporary world, Arendt suggests. Yet to conflate the social world and its principles with the political sphere is to deny politics of any independent existence and thus to undermine the very ‘right to have rights’ – to be understood as an equal member in a political community – that Arendt believes must underpin any viable, legitimate, and acceptable political system or practice.⁸⁴

6. The Revolutionary Potential of Civil Disobedience

⁸³ Hannah Arendt, ‘Reflections on Little Rock,’ in *Responsibility and Judgment* (New York: Schocken Books, 2003), 193-213; 205.

⁸⁴ Arendt, *The Origins of Totalitarianism*, 294.

What fundamentally distinguishes civil disobedience as a legitimate political practice from illegitimate practices then, is neither nonviolence nor a commitment to constitutional law, but its commitment to the principle of publicity that is a necessary condition of all political action. In and of itself, civil disobedience need not adhere to existing laws, or even legal principles, as this paper has shown. True revolution can be seen ‘only where change occurs in the sense of a new beginning, where violence is used to constitute an altogether different form of government, to bring about the formation of a new body politic.’⁸⁵ Civil disobedience does not attain this; that does not mean it may not seek to attain it, nor that the actions undertaken by civil disobedients are conclusively different from the actions of revolutionaries. Thus, it can be seen that what distinguishes civil disobedience from revolution is not the act itself but its context and its consequences.

Furthermore, while civil disobedience is ‘primarily American in origin and substance,’ it is not exclusively a feature of American politics in the modern world.⁸⁶ Although national differences in resistance and protest movements ‘are of course very great,’ civil disobedience is, nevertheless, ‘a global movement – something that has never [before] existed in this form,’ Arendt argues. What marks out this generation is ‘its determination to act, its joy in action, the assurance of being able to change things by one’s own efforts.’ And this action is realised differently in different countries, she states, ‘according to their various political situations and historical traditions.’⁸⁷ Arendt’s focus on American civil disobedience is somewhat misleading in terms of understanding civil disobedience, although this is not surprising given that her intention in writing on this facet of American political life was precisely to comment upon the particular and unique strength of the republic. The distinctive qualities of the American political system means that civil disobedience, in America, may be not only political, but may *also* be undertaken in accordance with its constitution, founded as it is, upon the principle of consent, and thus dissent. Thus, in America, a revolutionary type of activity might find its fulfilment in the existing system of government, and furthermore, can even energize and restore its constitution and government.

⁸⁵ Arendt, *On Revolution*, 35

⁸⁶ Arendt, ‘Civil Disobedience,’ 83.

⁸⁷ Arendt, ‘Thoughts on Politics and Revolution,’ in *Crises of the Republic* (New York: Harcourt Brace Jovanovich, 1972), 199-234; 201.

However, whilst America is in the enviable and seemingly unique position, by Arendt's reckoning, of being able to utilise such forms of action without having to resort to violence or to revolution, where other peoples, under other political systems might have no option, her work on civil disobedience also sounds a note of warning. America must face up to the dangers it faces. And one of the dangers that Arendt held to be most threatening to the American republic was racism. This was in part due to her general concern with bringing race as an 'organic' or 'natural' fact or interest into politics, that something that introduces hierarchy and distinction into the political sphere. But in addition, in 1960s and 1970s America, along with a more general loss of confidence in government, 'there is a more radical unwillingness of certain sections of the population to recognize the *consensus universalis*,' she writes.⁸⁸ This is rooted in the fact, she argues, that 'Negroes and Indians...had never been included in the original *consensus universalis* of the American republic.'⁸⁹ In her view, this 'original crime' had never been overcome, remaining not only problematic for American social integration, but the most likely source of America's political disintegration. A republic, or a political body, as implied by the earlier discussion of publicity, requires a self-identified unified people. America's constitutional beginnings, the political tradition that hinged upon acceptance of that beginning, and the failure of America and its system of law and of government to conclusively right that wrong by explicitly including black Americans in the republic, perpetuated what Arendt believed (following Tocqueville) was most likely to form the eventual undoing of the political body.

Civil disobedience can be empowering in a consent-based system but even in such a system it can become revolutionary if it does not find a suitable outlet, or if it seeks to break apart the body of the people; it can be legitimately political, but it can also become corrupted by false ideologies. Civil disobedience and resistance, like revolution, is an expression of that action that is both a necessary and fundamental part of politics, as Arendt understands it, but which can also threaten the very political artifice, or legal structure, which gives it its permanent space to act in the world.

⁸⁸ Arendt, 'Civil Disobedience,' 89.

⁸⁹ Ibid.