Global Citizenship, Global Civil Disobedience and Political Vices

Luis Cabrera
Griffith University

Forthcoming, Cambridge Handbook of Civil Disobedience, ed. William Scheuerman

Abstract: Theorists have increasingly argued that some principled law breaking which crosses territorial or citizenship boundaries should be understood as trans-state or global civil disobedience. This chapter focuses on violations of law by international activists, and also asylum seekers and economic migrants who enter a state without authorization. It analyzes their actions as potentially corrective and institutionally constructive practices within a framework of global citizenship. It also argues, however, that most such acts which cross state boundaries cannot be strictly characterized as civil disobedience. That is because civil disobedience is standardly framed as a response to a vice of political recalcitrance, where majorities or dominant power holders recognize the formally equal political standing of all persons in a polity but ignore some groups’ input and interests in decision making. By contrast, most trans-state acts are more aptly understood as responses to political arrogance. It involves a more wholesale and inappropriate rejection of persons’ standing to give input or lodge formal challenges. An implication is that forms of cross-border law breaking such as conscientious evasion which do not meet the strict requirements of civil disobedience could be justifiable. Reasons are offered to think that most unauthorized entry can be understood as justifiable global conscientious evasion.

Introduction:

Civil disobedience is typically characterized as morally principled, deliberate and publicly enacted violation of law by individuals, who do not then seek to evade arrest. It is framed as a “civil” way for citizens to challenge possibly unjust laws or policies: one that is in broad fidelity to their domestic rule of law and good citizenship, even when it involves the refusal to obey some specific law.¹ Similarly, a number of commentators have sought to show that some acts which cross state territorial or citizenship boundaries should be understood as trans-state or global civil disobedience. They have focused on deliberate, principled

violations of a state’s law by non-citizen activists, asylum seekers and unauthorized migrants, among others.²

This chapter details a conceptual framework of global citizenship within which such principled law breaking beyond the state can be situated. It also highlights a significant underlying distinction between domestic and supraregional civil disobedience which has received relatively little attention in the recent literature. That is, a range of acts commonly characterized as domestic civil disobedience can be understood as responses to collective political recalcitrance, where political majorities or dominant power holders formally recognize the standing of others to give input as political equals but largely ignore their interests in the laws actually produced and enforced. By contrast, most acts of resistance which cross citizenship boundaries will be more aptly understood as responses to political arrogance. It involves an inappropriate rejection of others’ formally equal standing to give input or lodge formal challenges.³ The distinction is significant because it can help to highlight ways in which law breaking beyond the state that does not meet the strict requirements of civil disobedience may still be understood as morally principled and possibly

---


justifiable. Emphasis is given to unauthorized migration as a potentially justifiable form of conscientious evasion.

The chapter is structured as follows: the first section presents conceptions of civil disobedience and discusses political vices of recalcitrance and arrogance as provocations to principled law breaking. The next section works to show how it can be conceptually coherent to posit conceptions of citizenship beyond the state as contexts for civil disobedience and related resistance. Some trans-state and global cases are discussed which display some standard features of civil disobedience. Full analysis of such cases, however, helps to highlight how political arrogance is much more frequently in play than recalcitrance in them. This limits the corrective or constructive potential of principled law breaking, puts law breakers at much greater risk, and may justify conscientious evasion or other forms of resistance. Overall, it is argued, an emphasis on political vices can give important guidance on identifying forms of trans-state and global law breaking that can be seen as principled, possibly justifiable, and deserving of some leniency.

**Domestic Citizenship, Political Vices and Principled Law Breaking**

Civil disobedience is standardly situated within a framework of citizenship theory and practice, especially in democratic societies. It involves challenges to laws or policies which disobedients believe to be unjust, or more specifically that may be inconsistent with the foundational moral principles informing their society’s political and legal institutions. The violation could be of the law in question, or it could involve blocking traffic or other disruptive activities aimed at generating attention for the broader challenge. Other standardly cited features include that challengers have first tried to use ordinary legislative and legal

---

4 For discussion of “international civil disobedience, involving deliberate violations of international law by states, see the chapter by David Lefkowitz, this volume; see also Robert Goodin, “Towards an International Rule of Law: Distinguishing International Law-Breakers from would-be Law-Makers,” The Journal of Ethics 9, nos. 1-2 (2005): 225-46.
procedures, and that the law breaking be perpetrated openly, with the aim of communicating resistance and persuading co-citizens to also reject the law or policy. Significantly here, civil disobedients also are expected not to try to evade arrest, as a means of demonstrating their general commitment to the rule of law in their society, and as a further means of publicity or communication. An implication of such a requirement is that disobedients have some expectation that they will not be subjected to unduly harsh punishment after arrest, and that they have some claim to leniency from authorities.

Numerous other forms of domestic law-breaking can be identified that are motivated by adherence to principle, or can be framed as normatively justifiable, as opposed to more standard criminal acts motivated by anger, for personal gain not tied to basic needs fulfillment, etc. Such principled acts are typically defined in relation to civil disobedience, with emphasis on standard features they lack. For example, law breaking motivated by conscientious objection typically lacks an emphasis on publicity or communication, though objectors do not necessarily seek to avoid arrest. By contrast, such avoidance of arrest is central to forms of conscientious evasion, which is often viewed as a flawed form of principled resistance. Robert Goodin, for example, characterizes those unwilling to accept the consequences of their violation as “just ordinary law breakers.” Finally, radical protests, including terror attacks, lack the ‘civil’ dimension, in that they seek to force change rather than persuade co-citizens to support it.

As noted, political vices and virtues have received little explicit attention in the recent literature, though they can be understood as central to civil disobedience and related law breaking. Scheuerman, for example, indicates the vice of political recalcitrance when he observes that, in the liberal approach which has been most prominent since roughly the late

---

5 See Brownlee, "Civil Disobedience";  
7 Goodin, “Towards an International Rule of Law,” 233-34; see Brownlee, Conscience and Conviction, 1-2.  
8 See Brownlee “Civil Disobedience,” Section 1.3.
1960s, civil disobedience is understood as “a useful corrective to overbearing political majorities that periodically threaten minority rights.”⁹ Political recalcitrance again entails a recognition of the formal standing of others to offer input in law or policy making, but a tendency to ignore their interests or rights in the actual laws produced and enforced. Civil disobedience may be undertaken in part to call attention to the ignored interests or violated rights, and to persuade the majority to address the harms which have ensued. The standard expectation is that such a process would take place within the political system as configured, rather than requiring a more fundamental change. There certainly can be cases, however, of endemic and long-term recalcitrance, as in states which see multiple generations living under the rule of a dominant single party, or are otherwise illiberal or quasi-authoritarian democracies. A need for more extensive systemic change incorporating checks on majority power could be indicated.

By contrast, because the vice of political arrogance involves a more comprehensive rejection of others’ standing, it could more often imply more extensive corrective and especially constructive institutional change.¹⁰ It may also justifiably be met by less stringent forms of principled resistance such as conscientious evasion or, as some commentators have suggested, the coercion of others.¹¹ Political arrogance may be manifest in formally unequal citizenship and especially lesser participation rights for some longstanding minority groups within a society, or de facto such inequality, where all groups are formally included but some minority groups are prevented from actually participating. Unlike in circumstances of political recalcitrance, dominant groups do not typically go through the motions of allowing

---

¹⁰ The corrective/constructive distinction is highlighted in Scheuerman’s discussion of differences between Rawls’s “static” liberal account and Jürgen Habermas’ account of civil disobedience as integral to democratic contestation and prospects for more fundamental change: Scheuerman, *Civil Disobedience*, 76-80.
equal participation by all in the polity, and the excluded will typically have fewer means available to challenge the denial of even their most basic rights.

In general, the more that vices of recalcitrance and especially arrogance obtain within a system, the less plausible it may be for individuals to address injustices through the ordinary channels of that system. The more severe the injustices – the more they threaten persons’ most basic interests and rights – the more some deviations from standard requirements of civil disobedience may be justifiable. Alternately, virtues such as political humility can be understood as central to more defensible practices of political citizenship. Political humility entails not some form of deference or submission to others, but a full recognition of the equal standing of all persons in a set to give input as equals, and to make use of mechanisms for deliberation, publicity and formal legal or ombuds challenge. It can thus be seen as foundational to practices of good citizenship, involving the good-faith consideration of others’ input and interests and a rejection of political recalcitrance. It is presented here as an overarching aim toward which various kinds of principled resistance are or could be oriented.

Overall, an emphasis on political vices should give clearer guidance on justifiable types of resistance than, for example, Rawls’s much-discussed stipulation that civil disobedience is appropriate in societies which are “nearly just.” It also helps to highlight features not fully captured by Andrew Sabl’s sympathetic reinterpretation of the near-justice presumption. For Sabl, a theoretically consistent interpretation of nearly just would include even clearly hierarchical and segregated societies, so long as the in-group observes a moral code among its own members which could be cited in actions by out groups seeking full inclusion. Such an approach, however, would not fully capture ways in which the type of

---

political arrogance described by Sabl could justify responses beyond strict civil disobedience, especially where formal inclusion is not a near-term prospect. I return to the political vices below, as provocations to trans-state and global civil disobedience and conscientious evasion.¹⁴

A Framework of Global Citizenship

Many accounts of trans-state and global civil disobedience posit some notion of global citizenship within which the principled law breaking is situated.¹⁵ Yet, it remains the case that, with the partial exception of the European Union, and the possible exception of some other regional organizations as they develop, there is no formalized regime of democratic citizenship beyond the state. Critics have thus long challenged the coherence of a conception of global citizenship¹⁶ – and by extension of global civil disobedience as a corrective and potentially constructive practice within it.

In response, we can first note a challenge to a corresponding presumption about the robustness or comprehensiveness of domestic citizenship regimes. That is, many of the elements of citizenship within states are acknowledged to be in development, or in need of significant further development, even by theorists who reject global citizenship as incoherent because it is not sufficiently developed. Elements would include an understanding of the nature of the individual agents acting as citizens, of what binds them together in political community; the rights they hold as citizens, and the specific types of duties they should be asked to discharge correlative to those rights. Most essentially here, they include the

¹⁶ Hannah Arendt, Men in Dark Times (New York: Harcourt Brace Jovanovich, 1968); see Andrew Mason, Living Together as Equals: Demands of Citizenship (Oxford: Oxford University Press, 2012), Ch.8; For a more detailed response to this objection, and cognate objections to duties of global justice, see Cabrera, The Humble Cosmopolitan, Ch.6.
substance of citizenship and the status and institutions of citizenship. The substance is the overarching good toward which duties are oriented, and which citizenship practice is ultimately to realize. It could be some conception of basic rights, or more demanding ideals of reciprocity, justice, etc. The status of citizenship includes formally equal ‘trappings’ of citizenship such as passports. Institutions seek to back such trappings and the social guarantees they imply, as well as to more broadly promote the substance of citizenship.

The need to advance the development of specific elements of citizenship has in fact been a staple of domestic citizenship theory. Some accounts, for example, focus on a reciprocity-based substance of citizenship to be promoted among domestic co-citizens.17 Developing reciprocity and mutual recognition among citizens is presented as the ultimate aim of domestic citizenship, and action that those aiming to be good citizens will take.18 Similarly, domestic political institutions capable of actually backing citizen status and rights/entitlements may be significantly underdeveloped. For example, the Fragile States Index initiative reports that, of 178 states assessed, 70 fall into a “warning” or “alert” category for institutional stability, meaning that their capacity to actually back the entitlements and substance of citizenship is often severely limited.19 The Rule of Law Index20 finds protections for fundamental rights, as well as basic order and security highly uncertain in scores of states, and other longstanding surveys find democratic indicators similarly under pressure and in fact declining in recent years.21

Even in some affluent states, the actual backing of citizen rights/entitlements can be highly precarious, with large gaps in social welfare guarantees. In the United States, one of

---

18 Mason, Living Together, 36.
19 Fund for Peace, Fragile States Index 2018: http://fundforpeace.org/fsi/
the richest states per capita, more than 550,000 persons are estimated to be homeless. Such figures pose a challenge to disanalogy claims by global citizenship critics such as Brett Bowden. He asserts that being a global citizen is tantamount to being a stateless person, while “Being a citizen of any given state is about having a legally constituted authority charged with looking out for and guaranteeing the welfare of you and your fellow citizens.” In many states, the ability or willingness to back a range of such guarantees is lacking. In this and the other ways noted, the sharp disanalogy drawn between domestic citizenship and other forms is weakened.

What then of actual developmental regimes of suprastate citizenship? These are most evident at the regional level, where again the European Union has formalized regional citizenship and free movement among more than two-dozen nation states. It provides an important partial exemplar or laboratory for exploring the potential for and challenges to suprastate citizenship development. So do regional organizations such as South America’s Mercosur, which has formalized some free movement and considered a formal citizenship statute, as well as other regional projects which have sought to advance more basic worker mobility. None can serve as some ideal type for regional citizenship, given the persistent democratic deficits and lack of social welfare emphases in the EU system, and halting progress toward participatory regional governance elsewhere. The EU in particular, however, provides a framework in which regional citizenship has been formalized, and where some meaningful acts of trans-state/regional civil disobedience can be identified, on which more below.

25 See, for example, Wagner’s discussion of challenges to Danish family unification rules in the context of regional EU citizenship: Wagner, “Transnational Civil Dis/obedience.”
How, then, might we identify elements of citizenship in development at the global level, or which could be advanced there? One way is to adopt a developmental conceptual framework in which persons act like global citizens, or enact some elements and practices of global citizenship, when they:

a) reach across international boundaries, or internal boundaries of differential citizenship

b) to help protect the fundamental rights that would be secured under a more just system of global institutions: one which gave due equal consideration to the interests of all persons;

c) and (in an institutionally oriented vein), support the development of such a system.²⁶

Such a framework posits a rights-based substance of citizenship. It is informed by, though not strictly limited to,²⁷ the “global normative charter” of treaties and some related declarations enshrining rights and an underlying principle of human moral equality. The latter principle, for example, is prominent in the Preamble to the 1945 United Nations Charter, which specifies that the organization was created in part “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small…”²⁸ Such rights are given further shape and substance in the non-binding 1948 Universal Declaration of Human Rights, and especially in the binding International Covenants on Economic, Social and Cultural Rights (ICESCR) and Civil and Political Rights (ICCPR), which more than 165 and more than 170 states respectively have ratified, as well as in numerous other UN rights treaties.²⁹

---

²⁷ A rights-based conception of global citizenship is grounded in the fundamental presumption of human moral equality. Challenges might be raised to specific international treaty rights as inconsistent with such equality, for example, some types of group rights.
As in the accounts of domestic citizenship, an account of global citizenship would identify some primary duties to help develop the identified substance of citizenship -- individual rights protections -- across state boundaries. Examples of those assuming such duties would include Mexican citizens providing shelter and food to unauthorized immigrants from Central America who are struggling to reach the United States. Many such migrants are assaulted and robbed on the journey, or face exhaustion and injury from long treks and/or clinging to the tops of trains, and they are in dire need of assistance. 30 Others would include humanitarian patrollers in the U.S. southwest delivering water, food and first aid to unauthorized entrants at severe risk on desert crossings, many of whom have been lost or left behind by their smugglers. 31 Such migrants themselves may be framed as “mobile global citizens,” crossing territorial and citizenship boundaries to address gaps in economic welfare rights protections for themselves and their families.

Global citizen actors also would include persons seeking to use available global institutions to better secure the rights of their highly vulnerable domestic co-citizens. For example, activists in India’s National Campaign on Dalit Human Rights have used United Nations human rights bodies and oversight processes to challenge their own government’s efforts against caste discrimination. They have given particular emphasis to the International Convention to Eliminate All Forms of Racial Discrimination, to which India has been a state party for more than 50 years. Their actions, I have argued, are directly salient to criterion c) of the global citizenship framework above: supporting the development of global institutions which would better back a rights-based substance of global citizenship. That is, they have not only highlighted gaps in rights protections domestically, but also the underdevelopment of

31 Cabrera, Practice, 107-18; for general discussions of civil society actors, migrants and asylum seekers in a global citizenship context, see Carter, Political Theory of Global Citizenship, Chs. 5-6.
global institutions tasked with rights oversight and advancement. They have thus played a potentially institutionally developmental or constructive role, though not one focused on principled law breaking.

How, then, might we identify trans-state or global civil disobedients within such a framework of global citizenship? One key factor is that those engaging in civil disobedience beyond the state, or at least acting like trans-state and global civil disobedients, can do so by reference to the same foundational moral principles. This may be done explicitly, through specific rights claims, or it may be implicit, through actions broadly consistent with such claims. The next section discusses some salient trans-state and global cases, while also working to show how most involve responses to political arrogance rather than recalcitrance. The significance again is that law breaking which does not meet the full requirements of civil disobedience, including conscientious evasion, may thus be justifiable in most such cases.

1. Trans-state, Regional and Global Civil Disobedience

Trans-state civil disobedience, sometimes called “transnational,” can be understood as the principled violation of a state’s law or policy by individuals who are not citizens or authorized permanent residents of that state. It may also involve acts targeting a law or policy by the state’s own citizens on behalf of outsiders. In either case, the principled claim is at root that the state’s law is misaligned with the foundational moral principles of the current global system.

By contrast, acts of global civil disobedience would involve claims implicating structural principles of the global system itself, as misaligned with its foundational moral principles. Examples could be public protests by unauthorized migrants communicating

32 See Cabrera, The Humble Cosmopolitan, Ch. 6.
33 See Cabrera, Practice, 147-49; see also Smith “Civil Disobedience as Transnational Disruption,” 480-86.
claims for inclusion in a state.\textsuperscript{34} The target in such cases is not a specific state law or policy. Rather, the law breaking represents a more generic violation of the systemic principles of sovereignty affirming each state’s right to restrict entry to and independently govern its own territory.

Other prima facie cases of global civil disobedience could include individuals deliberately violating a state’s laws – blocking city streets, hanging banners from buildings -- to challenge rules developed in and backed by a treaty-based international organization such as the World Trade Organization.\textsuperscript{35} Global structural principles also are typically found at the root of such challenges, for example where states’ governments exercise privileges of sovereignty to exclude individuals and civil society groups from direct input on such global rules, or greatly restrict the input afforded to citizens’ representatives.

In terms of more specific cases, we can note first Greenpeace’s Brent Spar campaign as a possible instance of trans-state civil disobedience. The much-chronicled 1995 action involved an international team of activists occupying the Brent Spar floating oil storage facility, in protest of the British government’s approval to scuttle it in waters northwest of Scotland. Greenpeace objected that the facility would contaminate the waters with oil, heavy metals and radioactive waste. The group also objected that Brent Spar was only the first such move, with possibly hundreds of potentially damaging sea disposals like it to come.

The case thus involved foreign nationals targeting a British government policy through violation of the property rights of a firm (Royal Dutch Shell) incorporated in Britain. The force of their claims to \textit{principled} law breaking came from underlying claims that the UK policy was misaligned with the foundational moral principles of the global system, specifically with treaty-based security and welfare rights which comprise a broader right to a

\textsuperscript{34} I discuss various types of unauthorized entry in a framework of global civil disobedience and conscientious evasion in Cabrera, \textit{Practice}, Ch.5; see also Hidalgo, \textit{Unjust Borders}, esp. Chs. 5-7.

\textsuperscript{35} See Allen, “Civil Disobedience, Transnational.”
safe global environment.36 The activists and their allies communicated their claims to British citizens and globally, and they made themselves vulnerable to arrest, in fact remaining at the site until their apprehension.

The law breaking thus features some paradigm characteristics of civil disobedience. Yet, it also deviates from a strict interpretation of civil disobedience, in that the non-British activists themselves did not have formal standing to give input on the policy process relating to the decision in question. Nor would they be able to influence as political equals any relevant subsequent decisions – to exhaust legislative and legal remedies in any further cases. And significantly, as non-nationals they would not necessarily receive equal protection with citizens under British law, or have an expectation of leniency in treatment. Thus, their actions cannot be strictly be framed as civil disobedience: acts of corrective citizenship in response to political recalcitrance by the British government.37 Rather, the provocation would primarily be one of political arrogance, involving an inappropriate rejection of the standing of persons to give input on or lodge challenges to a possibly harmful or unjust law or policy.38 The distinction again indicates that other forms of principled resistance, including conscientious evasion, might be justifiable in such cases.

Some cases involving the violation of entry laws by asylum seekers would have a better claim to being framed as trans-state civil disobedience enacted in response to trans-state political recalcitrance. That is because the standing of such persons to at least make claims for (give input on) their own inclusion into another state has been affirmed under the 1951 United Nations Convention Relating to the Status of Refugees, which some 145 states

36 Ogunye frames the Brent Spar action as justified by reference to a more general natural duty of justice: “Global Justice and Transnational Civil Disobedience,” 16-17.
37 For related discussion of anti-whaling activism, see O’Sullivan, McCausland and Brenton, “Animal Activists.”
38 The justification claim here is not strictly an “all affected” one, where those potentially affected by decisions should have input into the decision process. It is not presumed that law breakers would have to show likely impact to themselves for their actions to be justifiable. For relevant discussion, see Cooke, “Cosmopolitan Disobedience.”
have ratified. In addition, some such cases have featured trans-state civil disobedience by citizens of the receiving state, who have reached across boundaries of citizenship to help the asylum seekers enter without authorization.

A prominent example is the Sanctuary Movement of the 1980s. Then, some U.S. citizens helped Central American asylum seekers enter covertly after the U.S. government had decided on dubious geopolitical grounds that they should be considered “economic migrants” and their asylum claims overwhelmingly rejected. Ultimately hundreds of churches and communities across the United States publicly declared themselves sanctuaries. Those who received sanctuary were extension in the public eye, and a number of asylum seekers also publicly communicated their claims. Those organizing the sanctuaries and transport to Canada for many asylum seekers communicated their reasons widely to their co-citizens, and all were exposed to arrest alongside asylum seekers. More than a dozen Sanctuary organizers in fact were arrested and prosecuted – actions which the disobedients used to call further attention to their claims, and ultimately to realize some change within US legislative processes.

Such a case thus displays numerous core features of trans-state civil disobedience provoked by trans-state recalcitrance. The United States had formally affirmed under international law the standing of extremely vulnerable persons to make a claim for their own inclusion in the U.S. polity as asylum seekers. At the same time, it had adopted a policy under which the large majority of decisions made did not actually take Central American asylum seekers’ input or interests into account. It thus had established a context within which trans-state civil disobedience, more strictly interpreted, could be enacted both by asylum seekers and their U.S. allies.

Some cases have similarly emerged in recent years of trans-state and regional civil disobedience by asylum seekers in response to political recalcitrance. For example, some asylum seekers have refused to abide by a European Union regional agreement dictating that their claims must be filed in the first EU country they reach. In perhaps the highest profile such case, in 2015, thousands of asylum seekers initially entering Hungary but trying to reach northern Europe were held by authorities at a Budapest train station. Several hundred decided to defy their detention and march some 150 kilometers away to the Austrian border. As Benli details, their actions, which were widely chronicled on television and other media, displayed several standard features of civil disobedience. Those included civility, conscientiousness, publicity or communication, and subjection to possible arrest.\textsuperscript{41}

The case also displays features of trans-state civil disobedience, since the marchers were challenging their specific treatment under highly restrictive asylum policies that Hungary had adopted. At the same time, they engaged in prima facie regional civil disobedience by challenging the EU regional policy restricting asylum claims to the first EU country entered. Numerous similar cases have been recorded in recent years, including ones where asylum seekers engaging in disobedience were aided by citizens of EU states.\textsuperscript{42}

Such actions by EU citizens, as well as the U.S. citizens acting in the Sanctuary movement, would most clearly fit the definition of trans-state civil disobedience. They took principled action on behalf of those who did not share their state citizenship to challenge actions by their state which were potentially misaligned with the global normative charter. In the case of asylum seekers themselves, however, the claim to strict civil disobedience is more tenuous. That is because the right of such persons to make a claim for their own inclusion is not inclusion itself. In cases where asylum seekers’ claims are almost categorically rejected,

\textsuperscript{41} Benli, “March of Refugees.”
and on dubious grounds, the provocation to law breaking could be more aptly characterized
as political arrogance. It could justify deviations from strict standards of civil disobedience by actors, including possibly the evasion of authorities and unauthorized residence.

Political arrogance is more clearly foregrounded in many cases which display features of global civil disobedience. The global variant again involves individual violations of states’ laws which represent challenges to more generic framework principles of sovereignty in the current global system. I have argued at length elsewhere that the system is fundamentally oriented to political arrogance.\(^{43}\) That is, it inappropriately enables states to summarily reject the standing of individuals to lodge rights-based challenges, whether that of their own citizens/population or outsiders. In relation to their own populations, states’ leaders effectively cite the prerogatives of sovereignty they possess in their ascribed roles as guarantors of individual rights – the rights at the heart of the global normative charter – in rejecting claims about their flawed actual performance as rights guarantors. Such dynamics were in play when Indian officials rejected the standing of Dalit activists to challenge domestic anti-caste discrimination policies in UN rights bodies, while also rejecting meaningful oversight from those bodies. In relation to outsiders’ claims for economic and related rights, including by would-be migrants, governments implicitly cite all states’ roles as stewards of their own citizens’ rights as reason to reject, while ignoring vast differences in states’ ability or willingness to actually serve as rights guarantors.

With such contextual claims in mind, we can consider first some prima facie global civil disobedience actions involving unauthorized migrants. A well-known case is that of the Sans-Papiers movement. It was publicly launched in 1996 with the months-long occupation of a Paris church by some 300 migrants from African countries. Occupiers released a public statement declaring that they would no longer hide in the shadows, and that: “We are people

\(^{43}\) Cabrera, *The Humble Cosmopolitan*, Ch.6.
like everyone else . . . We demand papers so that we are no longer victims of arbitrary
treatment by the authorities, employers and landlords. . . . We demand papers so that we no
longer suffer the humiliation of controls based on our skin, detentions, deportations, the
break-up of families, the constant fear.”

The occupiers made primary reference to their moral status as human beings in
grounding their claims for inclusion and good treatment. Such claims are consistent with the
equal moral status foregrounded in the global rights instruments noted above. They offered a
generic principled claim for inclusion and the permissibility of their violation of entry law. It
was a claim applicable to any state seeking to enforce the territorial rights granted to it in a
system of sovereign states. They also perpetrated their violations publicly and with the aim of
communicating their stance, while exposing themselves to possible arrest. Again, however,
their standing to give input on, or make claims for, their own inclusion is not recognized by
states in the current system. If their principled law breaking was in fact justifiable, it would
be a justified response not to political recalcitrance but broader political arrogance.

The potential significance of such a distinction between the vices can be reinforced
through attention to more recent cases. In one extended campaign, more than 3 million
unauthorized migrants and supporters marched through U.S. cities and took part in mass
absentee days in 2006-07 to call for their inclusion and a path to citizenship. Prominent at
numerous such events were signs declaring “No human being is illegal.” Related U.S. protest
actions have involved persons brought into the United States as children in families entering
without authorization. They have sought in part the passage of “Dream Act” legislation that
would regularize their status. The Obama administration suspended deportation of

Press), 143.
45 Cabrera, Practice, 135; see also Megret, “Migrant Protests.”
“Dreamers” in 2012 and offered them renewable work permits, but the Trump administration from 2017 sought to reverse those moves.46

Each such case displays on its face some standard features of global civil disobedience. Unauthorized residents of states made claims for formal inclusion and domestic civil rights. They did so publicly, communicating to others in their host states, by civil means and exposing themselves to arrest. How, then, does political arrogance figure in such cases? First, it might be argued that it doesn’t in the case of the Dreamers: their protest actions clearly represented civil disobedience provoked by political recalcitrance, given that the Obama administration had affirmed at least some formal standing for them as members of the political community. Yet, it is precisely because they did not hold secure such standing that their inclusion proved tenuous and temporary. Dreamers are not able to claim that their exclusion from membership is misaligned with the foundational principles of their domestic society, in the way that other civil disobedients have.

For example, when Martin Luther King, Jr., called for equal civil rights for African-Americans, he highlighted some ways in which they were being treated inconsistently with their recognized status as American citizens. Such a claim was central to King’s “I Have a Dream Speech” of 1963. He noted that the Constitution, along with the Declaration, represented “a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights of life, liberty, and the pursuit of happiness.”47 Thus, King justified large-scale civil disobedience in large part as a response to political recalcitrance – though arrogance also would have been in play where persons were prevented by threats of violence or other means from any political participation.

Unauthorized migrants, even those who were brought to a country so young that they have known no other, cannot make their claims for inclusion from the same position as King and his co-activists. Since their status as members of the U.S. polity is highly insecure, they face a chronic risk of expulsion. Thus, when they publicly identify themselves, protest and make claims for inclusion, they do not engage in resistance strictly provoked by the inappropriate neglect of their interests/rights in a domestic system formally tasked with protecting and promoting them. Rather, they respond to a more comprehensive political arrogance and challenge their lack of formal standing.

The Dreamers’ actions, alongside more typical forms of unauthorized immigration, can be seen as an important broader challenge to the political arrogance of the current global system. In that system again, states’ sovereign powers, including ones to dismiss individual rights claims without input or challenge, are ultimately grounded in a global imperative to protect individual rights. Entry violations by persons who are trying to address gaps in rights protections for themselves and/or family members would be in broad fidelity to the foundational moral principles of the current system.\textsuperscript{48} Their actions can highlight deep tensions between the rights commitments in the global normative charter, including aspirational economic rights, and the segregated and exclusionary institutional structure of the system. The implication is that unauthorized entry can be characterized as a form of principled resistance – conscientious evasion – which is potentially justifiable, given the political context.\textsuperscript{49} Rather than being grouped with “ordinary” law breaking, it would represent one form of law breaking which fulfills a principled or conscientiousness criterion and is one of the means of resistance available to relatively less-affluent persons in a system oriented to political arrogance and stark inequality.

\textsuperscript{48} For survey responses by Mexican migrants on motivations to enter, see Emily Ryo, “Deciding to Cross: Norms and Economics of Unauthorized Migration,” \textit{American Sociological Review} \textbf{78}, no.4 (2013): 574-603.  
\textsuperscript{49} For a detailed discussion of such claims, though without the emphasis on political vices, see Cabrera, Practice, 132-50; see also Hidalgo, \textit{Unjust Borders}. 

Possible Objections

It might be argued first that such actions fall outside of a framework of principled law breaking, because unauthorized entrants do not typically intend to challenge the justifiability of entry laws per se, but simply seek to better their own life opportunities through action that incidentally involves law breaking. They are not clearly conscientious evaders. The key factor, however, will not be whether unauthorized entrants intend to call attention to a potentially unjust feature of the global system, but whether their actions are consistent with the foundational moral principles.

Certainly intent can matter in this context, for example in the question of whether those who enter without authorization intend to observe a general fidelity to their receiving state’s domestic laws, insofar as those also are in broad fidelity to the foundational moral principles. Smugglers who violate entry laws for the narrow purpose of carrying bales of marijuana to a drop off point, returning and doing the same repeatedly, are not so clearly taking action consistent with principled resistance to political arrogance. If, however, unauthorized entry is broadly consistent with the foundational principles, there would be relatively little to distinguish it from law breaking motivated more clearly by opposition to entry laws or enforcement regimes – for example by citizens of the receiving state aiding asylum seekers or economic migrants in unauthorized entry.

The concern raised leads to a more general objection, that much principled resistance should itself be viewed as arrogant, in particular where law breakers do not make themselves subject to arrest. In evading, they claim inappropriate exemptions for themselves from the input or challenge of others who object to their actions – a hallmark feature of personal

---

50 Cabrera, Practice, 140.
arrogance.\textsuperscript{51} Again, however, unauthorized entrants do not hold formal standing in the system. They are not able to engage in reciprocity: to receive input or be challenged, nor especially to give input or challenges, as formally recognized equals. They have few means of advancing political humility in a system marked by political arrogance. Thus, their evasion is more clearly justifiable. They can, it should be noted, engage in de facto reciprocity, through seeking to act in ways consistent with the moral equality and rights of others in their host communities, which again can be manifest as broad fidelity to laws consistent with the global principles. This is not construed as some stringent practice of political obligation, but a more general fidelity to a rule of law consistent with moral equality, like that stipulated in conceptions of civil disobedience.

Such responses do not, of course, settle questions around the justifiability of all possible principled suprastate law breaking falling outside of strict civil disobedience. Important additional issues must be considered, including proportionality of response to various provocations, permissible means of responding, impact on the rights of other persons, among a range of others.\textsuperscript{52} They do, however, indicate some reasons to view a form of law breaking perpetrated in the current system by tens of millions of persons as principled and possibly justified.

\textbf{Conclusion}

This chapter has offered an approach to conceptualizing trans-state and global civil disobedience within a framework of global citizenship. Trans-state such actions have been presented as ones involving non-nationals of a state deliberately violating its laws to


\textsuperscript{52} For a nuanced framework for analyzing such questions, see Caney, “The Right to Resist Global Injustice”; see also Sabl, “Looking Forward,” 315, for bars on acts which could harm possibilities for future peaceful cooperation in a society.
challenge a law or policy that may be misaligned with the commitments to human moral equality and individual rights in the UN Charter and numerous global rights treaties. Global civil disobedience entails claims, implicit or explicit, that structural principles of sovereignty themselves are misaligned with the foundational moral principles.

Forms of principled resistance have been distinguished partly by their relation to political vices. Civil disobedience was shown to be most aptly understood as a response to political recalcitrance: the affirmation of individuals’ fully equal standing to give political input and lodge challenges, but also a neglect of their interests in decisions actually made. Political arrogance entails a more wholesale rejection of individuals’ standing. It was shown that, while many cases of trans-state and global resistance display some standard features of civil disobedience, most also are enacted in circumstances of political arrogance rather than more moderate recalcitrance. In such circumstances, less stringent forms of principled resistance could be justifiable, including conscientious evasion. An implication is that much unauthorized migration may be justifiable as a form of conscientious evasion.