

CHAPTER ONE

DDoS and Civil Disobedience in historical context

“... in a democracy, we should all be equally uncomfortable.”¹

Henry David Thoreau indirectly coined the term “civil disobedience” in a series of essays first published in 1849. These essays originally titled “Resistance to Civil Government” were eventually retitled “On Civil Disobedience.” Thoreau’s description of the duty of citizens to refuse to allow their government to override their conscience, interwoven with his own personal narrative of refusing to pay taxes and subsequently spending the night in jail, is one of the most influential texts in the modern understanding of the role and practice of civil disobedience in a Western democracy. Thoreau’s abolitionist-motivated tax dodge is hardly the earliest example of civil disobedience, however. Hannah Arendt, in her essay “Civil Disobedience,” cites Socrates and the events described in the *Crito* as a foundational episode.²

In this chapter I will be contextualizing DDoS actions within the historical and theoretical context of civil disobedience as

it is understood today. The role of disruption, both in DDoS actions and in historical instances of civil disobedience is of particular interest. It's important to recognize that the power of a DDoS action to be disruptive to the workings of its targets and the everyday lives of digital passersby is one aspect of DDoS actions that ties them most closely to the theory of civil disobedience. The focusing power of a public disruption is often considered central to the efficacy of these political actions, both those that take place in the street and online.

Along this vein, this chapter also takes on certain critiques of DDoS-as-civil-disobedience that seem to originate from an ahistorical view of the development and implementation of civil disobedience in the United States of America. I argue that the popular and media understandings of civil disobedience in Western democracies, particularly in the United States, stem from a narrativized view of iconic moments in political activism, such as the Civil Rights Movement, which do not take into account the realities faced by political movements as they develop or the particular challenges faced by activists attempting to operate in a novel environment such as the internet, where the norms and expectations of activist speech and practice are far from established. I further argue that criticisms rooted in narrativized, media-based understandings of activist movements ultimately chill innovation in political movements.

Disruption, particularly disruption of speech or “speechy” spaces such as the internet can be a complicated issue when it occurs within the context of discursive democracy. This chapter also considers the role that the disruption of speech and the resultant episodes of nonspeech can play in a discursive democracy. Drawing on the theories of Jodi Dean and others, I am here making the potentially counterintuitive argument that sometimes what is necessary for the continued functioning of a talk- and information-based democratic system is the interpolation of silence rather than the continued injection of more (perhaps) unheeded speech.

Silence and disruption in the time of constant comment

In his 1849 tract, Thoreau describes how his abolitionist principles and opposition to the Mexican-American War led to his refusal to pay taxes, an action which he considered to be the most direct form of resistance the government, and which led to his subsequent (very brief) imprisonment. Thoreau's original conception of civil disobedience included the imprisonment of the disobedient as central to its potential impact:

Under a government which imprisons any unjustly, the true place for a just man is also a prison. The proper place to-day, the only place which Massachusetts has provided for her freer and less desponding spirits, is in her prisons, to be put out and locked out of the State by her own act, as they have already put themselves out by their principles.³

For Thoreau and many who came after him, the spectacle of public disobedience was incomplete without the punitive reaction from the state. Though Thoreau maintained his actions to be in service to his own conscience, he also understood that there was an audience for his actions. His refusal to pay tax, imprisonment, and particularly his writing about it later, were intended as performances of an active injustice, wherein both Thoreau and the forces of the state were both players. For Thoreau, his act of civil disobedience specifically involved inducing the state to participate in a public drama by which the state would be revealed as unjust and Thoreau confirmed as a just man with a just cause.

Similarly, Martin Luther King Jr advocated the acceptance of punishment as central to his position of nonviolent civil disobedience:

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.⁴

The Civil Rights Movement in the United States in the 1950s and 1960s is considered the modern paradigmatic example of collective civil disobedience by many. The highly mediated movement, photographed, filmed, and televised, cast the mold for the popular perception of civil disobedience. Stark images of peaceful street marchers beset by police dogs, lunch counter sit-ins, and Rosa Parks at the front of the bus are timeless illustrations of a righteous minority standing firm in the face of obvious injustice. Following Thoreau's model, civil disobedience during the Civil Rights Movement meant, for many activists, putting their bodies and identities on the line, getting arrested for their cause in full view of the state and the media.

This is a widely recognized script for the conduct of civil disobedient activism: it happens in public, it happens on the street, and activists willingly face consequences such as arrest or injury for their cause. It's a script the news media readily recognizes, and activists who adhere to it are rewarded with coverage that legitimates its political nature. When trying to understand modern instances of civil disobedience or disruptive activism, be it Occupy, the global justice movement, or internet-based actions such as DDoS, the Civil Rights Movement is often treated as a singular touchstone, used to determine the validity and political seriousness of the action in question. Over the last half century, the Civil Rights Movement in the United States has taken a venerated place in political history. Its history has been narrativized and packaged to the point where it has become virtually ahistorical, and no modern, developing movement could possibly stand up in comparison. Inevitably, such comparisons on the part of the media and the public serve to only stifle innovation

within social movements and political action, while at the same time cultivating a deep and unproductive nostalgia for a kind of “ideal activism” that never existed. This view is reflected in the “slacktivist” critiques mentioned earlier, with the likes of social critics Malcolm Gladwell, Evgeny Morozov, and hacktivists Oxblood Ruffin explicitly (and negatively) comparing contemporary online activists to civil rights era activists.

One aspect of civil disobedience that this nostalgia glosses over is its potential for disruption. The marches, sit-ins, and boycotts of the civil rights era were intensely disruptive and were intended to be so. As Martin Luther King Jr wrote in his “Letter from a Birmingham Jail”:

Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent resister may sound rather shocking. But I must confess that I am not afraid of the word “tension.” I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half truths to the unfettered realm of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. The purpose of our direct action program is to create a situation so crisis packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue.⁵

In this passage, Dr King pushes for the creation of what he calls “tension,” and what I would call “disruption,”ⁱ as the path to forcing a dialogue in the public sphere. Of course, it’s easy to acknowledge the virtue of disruption in a bygone era for a movement that is universally acknowledged to have been necessary and moral. Often it’s a trickier proposition to see the democratic utility of disrupting the status quo when it is *your* status quo being disrupted, by activists whose causes or tactics you might not fully understand or agree with. Legal theorist William Smith states, “It is common for democracies to celebrate figures from their *past* who used civil disobedience in campaigns to improve their institutions and society. It is less common for democracies to be explicit in acknowledging that civil disobedience *continues* to be a reasonable and sometimes justified form of political participation.”⁶ Dissent, particularly when it reflects unpopular, poorly understood, or poorly funded causes, often must engage in disruption of the everyday patterns of life to be heard. This is true in the physical world as well as in the online space. Without exploiting the capacity of disruption to direct the attention and political resources of a discursive democracy, it’s likely that causes which do not align with values already present in the mainstream political discourse would not be addressed, or would not be addressed as valid political concerns.

The popular instinct to judge modern protest actions against the memory of the Civil Rights Movement disregards the ways in which the context and practice of activism has changed or ignores central realities of activist practice that have been present for some time. It also ignores realities about how political movements, including the Civil Rights Movement, develop, adapt, and change over time, in terms of their organizing, street tactics, and media practices. Many of the most iconic moments in the Civil Rights Movement were exquisitely stage-managed

ⁱHere and elsewhere in this book, I use the word “disruption” to refer to actions and events that cause a breakage in the flow of normal events without causing physical destruction or physical damage to persons or property.

to maximize their media impact and to cast the movement in the most sympathetic light possible. Rebecca Wanzo notes in her book, *The Suffering Will Not Be Televised*,

The story of Rosa Parks is one of the most iconographic stories of the Civil Rights Movement. As the tale is often told, Parks refused to give up her seat for a white man because she was “tired” and this lone woman “inspired the Civil Rights Movement.” Of course, people had been working toward civil rights for a long time, and Parks was not the first woman in Montgomery to be arrested for refusing to give up her bus seat in 1955. Fifteen-year-old Claudette Colvin was arrested on March 2, nine months before Park’s arrest in December. The civil rights leaders had deemed Colvin an inappropriate figurehead for the movement. She was known to spout profanity (and in fact had done so on the day of the arrest) and was an unwed pregnant teenager. In October, Mary Louise Smith refused to leave her seat for a white woman, but she was deemed an inappropriate candidate for mobilization as well because she was the very poor daughter of a man rumored to be an alcoholic. By contrast, Parks was a soft-spoken seamstress who was the secretary of the local NAACP chapter.⁷

In selecting Rosa Parks as the “figurehead” for the Montgomery Bus Boycott, civil rights leaders chose a woman who could be seen as strong, noble, and sympathetic by large swathes of the public. However, Wanzo further notes, “. . . the refusal to mobilize on behalf of citizens who cannot be framed as ideal is a characteristic of political activism that comes with significant costs.”⁸ Movements, and those within them, are expected to stand as idealized representations of political communities. Movements, activists and victims of harm who don’t adhere to broadly sentimentalized narratives of political action can have their value as political actors rejected: “‘Bad’ victims like Claudette Colvin make for narrative messiness, and sentimental political storytelling rejects complex tales.”⁹ However the

political value of individuals and social movements shouldn't be denigrated because of the inability of one or the other to adhere to prescribed standards of social sympathy.

The storytelling which occurs around social movements favors clear, emotionally compelling through-lines, which are often difficult, if not impossible to discern in the moment, on the street, or at the computer. The present is always messy, only the past has the opportunity to be clean(ed). Ongoing or developing activist actions simply cannot be consumed by the public in the same fashion as iconic social movements which have had half a century to establish narratives in the media and the public imagination. Criticism that compares the developing world of online-based activism, such as DDoS actions or "clicktivist" or "slacktivist" actions, to the sit-ins and boycotts of the Civil Rights Movement is essentially empty. Not only do these new movements and actions not have the same goals as the Civil Rights Movement, they are also not organized by activists with the same level of or same kind of experience, and they occupy entirely different historical moments, with respect to when they are taking place, when they are being examined, and how. So not only do these popular critiques often bear little relationship to how the Civil Rights Movement occurred on the ground, but they also fail to realize that a comparison between internet-based activism occurring at the turn of the millennium and the iconic ideal of the midcentury Civil Rights Movement often serves no other purpose than to fault the current generation of political activists for not being their grandparents.

Similarly, this ahistorical myopia that encourages the exile of tactics such as occupations, blockades, monkey wrenching, defacements, culture jamming, strikes, sabotage, and many more from the popularly recognized repertoire of civil disobedience discourages activism and dissent, as well as any meaningful analysis thereof. It should not be surprising that these disruptive, and in some cases destructive, tactics, often interpreted to fall outside the realm of "acceptable" political acts, are used primarily by groups that are historically underprivileged in the area of public politics. Students, blue-collar workers,

inner-city youth, the homeless, those living below the poverty line, and other minorities are routinely pushed out of public political life because they are not engaging in what is popularly accepted as proper political conduct. These biases toward what “counts” as politically valid conduct and speech contributes to disenfranchisement and narrows the public political discourse. By ignoring the potential legitimacy of these out-of-the-mainstream disruptive tactics, critics are contributing to this systemic disenfranchisement by artificially and harmfully restricting what political speech and conduct is acceptable and, by extension, whose. A refusal to adapt to the modern, accepted repertoire of contention also implies a refusal to acknowledge basic changes in how the media and governments interact with political activists, particularly in the online space. Also dismissed are how the growing roles of corporations, multigovernmental organizations, and nongovernmental organizations have made these entities apt targets for performative, disruptive dissent. Traditional theories of civil disobedience often do not include anticorporate actions within the scope of “appropriate” uses of civil disobedience. However, as will be discussed in detail in Chapter 7, any attempt to fully grapple with online-based activism must include anticorporate actions as valid, given the strong (some would say dominate) role many corporations have in the governance of the online space, through influence on government and regulatory bodies as well as through code and contracts (like mandatory Terms of Service and binding arbitration clauses).

In terms of operational theory and impact, activist DDoS actions are not meaningfully different from other actions within the history of civil disobedience. What they are is novel, and they occur in a novel environment: the online space. This novelty, and their ability to impact the lives of nonparticipants at potentially unprecedented scale, contributes greatly to their controversial nature. However, novelty cannot properly exempt activist DDoS from being classified as a tactic of civil disobedience. Its disruptive nature cannot, on its own, render it inappropriate or criminal.

Nor does the nature of DDoS actions as “things which disrupt the meaning of others” render it in and of itself meaningless. Rather, the disruption itself is full of meaning. An activist DDoS action allows activists to step directly into the constantly shifting information stream and take a role in its temporary alterations. The act of reaching into and reshaping the flow of technological communications constitutes an act of political speech and conduct similar to what Bryan Pfaffenberger called “technological reconstitution.” Technological reconstitution permits a theoretical structure by which activists can reshape the use, deployment, and manifestation of technologies “guided by a self-consciously ‘revolutionary’ ideology.”¹⁰ This reshaping produces technological “counterartifacts,” which in turn make space for counter- and inverted-ideologies to occupy the technological space.¹¹

Pfaffenberger’s framework gives us the opportunity to break apart the impact of activist DDoS actions on the level of its technological politics. Here the counterartifact produced is the disruption itself. The blank browser screen, the long-delayed load time. By combining Pfaffenberger’s concept of the counterartifact with Jodi Dean’s theory of communicative capitalism, we can see how the imposition of silence and delay into a signal rich environment can be not only a powerful discursive contribution, but also a necessary one for the proper functioning of the public sphere.

The “counterartifact” produced here is the disruption itself. By replacing continuity with disruption, activists attempt to create a rhetorical cavity in the digitized structure of capitalism wherein activism can take place. This break in “business as usual” makes room for the counteractions of activism. It is the creation of excavated, disrupted space that is valuable in these contexts, sometimes even more valuable than a direct discursive engagement between activists and their target. The fact of the disruption is here the salient contribution, particularly when the moment of disruption is conceived of not as a space without content, but as a space without *signal*. In Dean’s theory of communicative capitalism,

she intentionally renders irrelevant the content of messages circulating within the networked data stream. Dean states that under communicative capitalism, which is the particular brand of interaction that dominates the networked environment within which our particular activity of interest solely occurs, “[m]essages are contributions to circulating content—not actions to elicit responses. The exchange value of messages overtakes their use value.” She continues, “A contribution need not be understood; it need only be repeated, reproduced, forwarded. Circulation is the setting for the acceptance or rejection of a contribution.”¹² In communicative capitalism, Dean argues, messages are reduced to their pure signal value, in particular to their reproducible signal value. In that context, the interruption of that signal becomes an equally powerful contribution. The interruption can be interpreted to be the only reasonable form of response to an “interlocutor,” such as a government or corporation, that is, by its projected nature, fundamentally nonresponsive.

If we look at the moment of content-less interruption as a moment of impact to be absorbed rather than a conveyance of content to be understood, we can then look at it as a form of exchange between differently empowered groups or between different power structures. What is invited is not a confrontation with another, which in Dean’s constant whirl of murmured content with no audience is not possible anyway. Under communicative capitalism, it is possible that it is the intentional creation of disruptions and silence that is the most powerful contribution.

The disruptions and silences that result provide a digestive reprieve from the self-referential swirl of content that demands constant comment but never makes room for reflection and analysis. It opens bandwidth for speech from new actors and participants in a public discourse that otherwise only ever receives signals from those (always) already broadcasting. The disruption inherent in DDoS actions is not empty of meaning. The targeted content is not supplanted by a void. Rather, it is exchanged for the fact of action. A conversation

occurs, though the parties are speaking with different vocabularies.

The intentionality of these actions is important. Activist DDoS actions and other types of disruptive activism are not random acts of vandalism; they are not simply shouting someone down with nonsensical noise. The exchange of speech for action or speech for conduct (and the subsequent exchange of that conduct for more speech perhaps from an unfamiliar source) is still a type of conversation. Disruptive activism and most types of civil disobedience, in general, tend to be conduct-based rather than speech-based activism. Despite this (or perhaps because of it), the value and validity of conduct as a type of political participation is often doubted or distrusted. In her essay, "Civil Disobedience," Hannah Arendt quotes the US Supreme Court as saying, "'... conduct under the First Amendment does not enjoy the same latitude as speech does,' and 'conduct, as opposed to speech is [of course] endemic' to civil disobedience."¹³ The common bias against the political value or relevance of "conduct-statements" as it were does not negate their capacity to convey strong political meaning or impact. It does, however, make the initial acceptance and interpretation difficult. As was discussed earlier, when political activism does not fit into the popularly accepted concept of what is "valid," disenfranchisement can follow. In Chapter 3, I will discuss in more detail the role of the media in determining what is or is not "valid." For now, though, it should be clear that while conduct-based political activism uses a different active vocabulary than speech-based activism, they remain in dialogue with each other.

As we look at the role of DDoS within online activism, the reader should bear in mind the power of disruption to draw attention to issues that no one wants to talk about, and to call different types of stakeholders to account. Though DDoS as a tactic is still relatively novel, it fits within a centuries-long tradition of breaking laws and disrupting business as usual to make a political point. These actions aren't simply disruption for disruption's sake. Rather they serve to help

the activist or dissenter to direct the attention of the public through the interpolation of difference into routine. The activist's generation of popular discomfort through disruption facilitates the conversations and confrontations that make up a working democracy.

“Full and free discussion even of ideas we hate”

It has been put forward that in representative democracies, civil disobedience, like other forms of political speech, is a right. David Lefkowitz, William Smith, and others have described this right to engage in the practice of civil disobedience, and Lefkowitz further clarifies that it includes a “right to do wrong.”¹⁴ Lefkowitz characterizes civil disobedience as “an act of public communication of participation . . . [I]t must be reasonable for those who commit such acts to believe that by doing so they will be able to communicate to (some of) their political leaders and fellow citizens their beliefs regarding the moral acceptability of the state's current exercise of authority.”¹⁵ Lefkowitz claims that inasmuch as modern deliberative democracies accept a moral right to political participation, that right includes a right to civil disobedience in so far as it is noncoercive (though not necessarily nondestructive or disruptive) and is intended to serve as a communicative act. The moral rights model covers indirect civil disobedience, or actions where the law being broken is not what is being objected to, as well as direct civil disobedience. I use Lefkowitz's moral right frame as a base for my concept of the role of civil disobedience in networked democratic societies: functionally and theoretically, acts of civil disobedience constitute acts of participation and communication, even in the face of their disruptive potential.

Central to this definition is the understanding of the protest action as part of the protester's right to political participation as well as contributing to the greater public political discourse

as a whole. Civil disobedience, as previously discussed in this chapter, allows political minorities and others with limited access to the media and public sphere introduce issues into the public discourse that may otherwise be ignored. Lefkowitz views civil disobedience as, through its disruptive potential, reducing the barriers that stand in the way of certain population's full participation in the process of deliberative democracy. This includes the ability to introduce and argue issues in the public discourse as well as reacting to the arguments of others. He describes the moral right to political participation as

. . . reduc[ing] as much as possible the degree to which it is a matter of luck whether one attracts majority support for one's reasonable views regarding what justice requires. . . . That is, respect for agents' moral right to political participation requires that potential barriers to their effective exercise of this right be diminished as much as possible.¹⁶

As civil disobedience and other forms of potentially disruptive yet communicative protest are reasonable forms of political participation, Lefkowitz includes a right to civil disobedience within his conception of a right to political participation.

Lefkowitz further argues that the moral right to civil disobedience partakes of a right to do so, even if the cause being advocated is wrong. To deny an individual a right to advocate for wrong, unjust, or, I would add, offensive causes renders meaningless any offers of political freedom at all; “. . . to allow agents to participate in political discussion making or to implement their decisions only when they make (what we believe to be) morally correct choices, would be to deny those agents autonomous lives—ones in which they exercise a significant degree of control over the shape and direction their lives take.”¹⁷ This interpretation means that the right of an activist to engage in civil disobedience or disruptive activism cannot be denied simply because the cause they advocate is morally wrong, distasteful, or offensive, or is interpreted by a given group of people to be so. While in

practice this can be expected to impose costs on third parties, Lefkowitz argues that “people should have to bear the costs involved in others’ exercise of their moral right to political participation. . . .”¹⁸ Lefkowitz’s framework describes the participatory value of civil disobedience, the right of citizens in a deliberative democracy to advocate for “wrong” causes, and the expectation that citizens should bear the cost of each other’s exercising their rights to political participation. It underscores the understanding that the best expression of democratic practice is not necessarily manifest in intellectual stability and comfort, but rather in the widest distribution of opportunities for individual participation and necessary social change possible. Because this definition recognizes the imperfect distribution of these opportunities for engagement in actually existing democracies, it holds that the types of disruptive actions found under the umbrella of civil disobedience to be as central a right as other, more mainstream modes of political participation, like the anonymous ballot.

Accepting that civil disobedience is a right, how should the state react to those who engage in it? It’s clear that states cannot simply accept the willful violations of laws, even if the violation was politically motivated. Ironically, this would often render the act of protest toothless as, as was discussed earlier in this chapter, the spectacle of the protestor engaged in a confrontation with the state is often central to the pageantry of civil disobedience. Here the difference between *penalization* and *punishment* becomes vital. Lefkowitz and William Smith articulate a difference in kind between the state penalizing civil disobedients and punishing them. Punishment, in the guise of harsh sanctions, long jail sentences, high fines, or changes in citizen status (such as becoming a convicted felon), serves to convey moral judgments on the actions taken and often tries to dissuade others from engaging in the same types of activities. Penalties, like token fines, arrests that do not result in criminal charges, or brief jail stays, on the other hand, do not convey a moral judgment and often hold little dissuading power.

Penalties can often be read as the state acknowledging the reality and seriousness of the protest at hand. As will be discussed later, penalizing actions of the state can often serve a legitimating purpose in protests, as the state uses its power judiciously to acknowledge that an oppositional political stance is being taken. Many activists rely on the reaction of the state to provide an opportunity to dramatize their commitment to a cause. Smith argues that the imposition of penalties after a disruptive protest can show that activists are still respectful of the public sphere and the bonds of “civic friendship” they share with other citizens.¹⁹ Lefkowitz and Smith each argue that while the state has an interest in penalizing citizens engaged in acts of civil disobedience, any *punishment* of those citizens violates their right to political participation and ultimately damages the processes of democracy.²⁰

To see how DDoS fits within Lefkowitz and Smith’s theories, it is important to remember that, like other acts of civil disobedience and disruptive activism, activist DDoS actions are communicative in nature. Though they are indirect (i.e., they often break laws and disrupt services other than those they object to) and though their messaging often takes place through separate (yet closely tied) channels, these aspects do not disqualify activist DDoS actions from falling under the moral right frame described by Lefkowitz and Smith. Because of that, it is particularly revealing to look at the state responses to activist DDoS actions within their context as acts of civil disobedience. These will be examined in greater detail in a later chapter, though it is worth noting here that the most recent spate of activist DDoS actions, occurring from 2007 through 2012, mostly involving Anonymous, have prompted extremely aggressive reactions from the US government. Because of the US government’s refusal to acknowledge these actions as civil disobedience and some particularities of US computer crime law, individuals arrested in connection with these actions have been threatened with up to 15 years in prison and \$500,000 in fines and restitution payments. These threats surpass the regulatory function of *penalizing*, serving instead the “example-making”

purpose of *punishment*, meant to dissuade others from taking up the same banners and tactics.

Here the US government appears to be exploiting these protest actions to convey a strong opposition to the use of this tactic, no matter its legitimacy as a form of activism. Prosecutors appear to be taking advantage of the uncertainty prompted by the novelty of the tactic and its environment to both strongly discourage its use and to chill any further innovation in the area of disruptive online activism and digital civil disobedience. The US government, which has over the past few decades demonstrated a strong willingness to engage in the surveillance and harassment of political activists, has an interest in discouraging the movement of activist activity to zones that enable anonymous actions across geopolitical borders, which would make it easier for activists to engage transnationally in political movements and causes, while at the same time potentially hampering US efforts to monitor and control such nonmainstream political activities.

It is the nature of the online environment itself that has made disruptive tactics such as activist DDoS actions increasingly necessary. However, the news media is still the arbiter of popular attention, deciding which activist causes are worth space on the front page or time on the 11 o'clock news. As mentioned earlier in this chapter, if the actions taken by activists don't "look like" activism, or the views presented are too outside the mainstream to appeal to viewers—and advertisers—it is likely that these actions will not be covered at all.²¹ However it is vital to a democracy that unpopular and dissenting ideas be aired, discussed, and debated in the open. As Justice William O. Douglas wrote in his 1951 dissent to *Dennis v. United States*:

Full and free discussion even of ideas we hate encourages the testing of our own prejudices and preconceptions. Full and free discussion keeps a society from becoming stagnant and unprepared for the stresses and strains that work to tear all civilizations apart. Full and free discussion has indeed been the first article of our faith.²²

An unbroken broadcasting of the status quo impoverishes our democracy. In order to avoid such a situation, dissenting views must not only be *spoken* but also *heard*. Owen Fiss,²³ Jerome Barron,²⁴ and others have presented interpretations of the First Amendment that encompass a “right to be heard” and a “right to hear” as well as a “right to speak.” Though it may be argued that the internet has substantially increased the number of soapboxes available, it has not increased the availability of the audience. Rather, as individuals become more adept at filtering their information taps, and as the infrastructure of the internet and the physical world around them makes it easier to avoid unwanted encounters with unpopular or simply different viewpoints, the ability of dissenters to truly have a voice in the national debate is being steadily diminished.²⁵

For unpopular and dissenting causes to attract the attention of a news media industry that, for economic reasons, is often uninterested in covering them, disruption of some kind can be necessary. Attention is attracted via the fact of the disruption, and the dissenting view is covered. As mentioned earlier, this is often a complicated process as activists attempt to engage the attention of the mainstream through the use innovative and disruptive tactics, always running a risk that their activism will not be recognized as such or dismissed as a novelty. This will be discussed in greater detail in Chapter 3. In an information landscape where corporate, homogenized news media still dominates much of the agenda setting, resorting to extreme tactics in the hopes of being heard is often a better option for the dissenter than simply waiting to be heard by grace and chance, a situation, Lefkowitz notes, the moral rights model of political participation seeks to avoid. In this way, disruption is a necessary part of the modern political discourse. Online, that disruption may take the form of a DDoS action, while in the physical world it may take another, perhaps more familiar form. What is critical is that the status quo, the normal flow of information must be disrupted if dissenting voices are to be both voiced and heard.

Notes

- 1 Tressie McMillan Cottom, "Presenting Selves: Social Class, Gender and Intersectionality in Ethnography." October 6, 2013. Last accessed February 23, 2014, <http://tressiemc.com/2013/10/06/presenting-selves-race-social-class-gender-and-intersectionality-in-ethnography/>.
- 2 Hannah Arendt, *Crises of the Republic* (San Diego: Harcourt Brace, 1972), 51.
- 3 Henry David Thoreau, *Civil Disobedience* (1849). Last accessed February 25, 2014, <http://thoreau.eserver.org/civil2.html>.
- 4 Martin Luther King, Jr, "Letter from a Birmingham Jail" (1963). Last accessed February 25, 2014, http://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html.
- 5 King, "Letter from a Birmingham Jail."
- 6 William Smith, *Civil Disobedience and Deliberative Democracy* (London: Routledge, 2013), 109.
- 7 Rebecca Wanzo, *The Suffering Will Not Be Televised* (Albany: SUNY Press, 2009), 29.
- 8 Wanzo, *The Suffering Will Not Be Televised*, 29.
- 9 Ibid., 30.
- 10 Bryan Pfaffenberger, "Technological Dramas," *Science, Technology, and Human Values* 17 (1992): 282.
- 11 Pfaffenberger, "Technological Dramas," 282.
- 12 Jodi Dean, "Technology: The Promises of Communicative Capitalism," in *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Leftist Politics* (Durham: Duke University Press, 2009), 26–7.
- 13 Arendt, *Crises of the Republic*, 85.
- 14 Smith, *Civil Disobedience and Deliberative Democracy*, 84–109; David Lefkowitz, "On a Moral Right to Civil Disobedience," *Ethics* 117 (2007): 202–33.
- 15 Lefkowitz, "On a Moral Right to Civil Disobedience," 215–16.
- 16 Ibid., 215.

- 17 Ibid., 228.
- 18 Ibid., 221.
- 19 Smith, *Civil Disobedience and Deliberative Democracy*, 22.
- 20 Ibid., 97; David Lefkowitz, "On a Moral Right to Civil Disobedience," *Ethics* 117 (2007): 203.
- 21 Jerome Barron, "Access to the Press—A New First Amendment Right," *Harvard Law Review* 1641 (1967): 1641–78.
- 22 William O. Douglas, *Dennis v. United States* (1951), 341 US. 494, 584.
- 23 Owen Fiss, *The Irony of Free Speech* (Cambridge, MA: Harvard University Press, 1996).
- 24 Barron, "Access to the Press—A New First Amendment Right," 1641–78.
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