

The Trump Resistance's Repertoire of Contention and its Practice of Civil Disobedience (2016-2018)

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Abstract: The Resistance, formed in opposition to Donald Trump, has seen progressive groups ally in marches and rallies all over the United States. Yet one of its most striking features is that there have been few acts of civil disobedience. Using the tools of social movement studies and political sociology as well as ethnographic data, this paper investigates why breaking the law has not been a more popular form of nonviolent direct action, and why activists seemed to favor permitted marches at a time when civil disobedience had become if not legitimate, at least increasingly accepted as a democratic practice.

The election of Barack Obama as well as the Great Recession of 2008 marked a subsequent revival of protest politics in the United States, with movements ranging from campaigns for better living wages such as Fight for \$15, Black Lives Matter actions against police brutality and institutional racism and strikes in the public sector (Wisconsin in 2011, the Chicago teachers' strike of 2012). Additional protest politics movements include the "Nonviolent Moral Fusion Direct Actions" of the Moral Mondays in the South in 2013 and Occupy in 2011, that held public space in opposition to "corporate greed" and the financialization of the economy. If these movements have adopted different strategies and repertoires of contention, they have stayed clear of electoral politics and have criticized the legitimacy of the American political system.

The latest iteration of this renewed protest cycle is the Resistance, which formed in opposition to Donald Trump's candidacy and subsequent election, and has seen progressive forces galvanize since November 2016. Political groups and coalitions, most of them newly founded, have allied in marches and rallies all over the country (The Women's March, March for Science, #MarchForOurLives) in numbers never seen before, or at least not since the Vietnam War.¹ They have also embraced electoral politics (Indivisible, Swing Left, The Town Hall Project), and in doing so have contributed to shaping the "Blue Wave" that has played a crucial role in the Democratic Party taking back the House of Representatives in the 2018 Midterms. Yet despite its strength and vitality, one of the most striking features of the Trump Resistance is that there have been few acts of un-permitted direct action and civil disobedience—a political tradition that is "primarily American in origin and substance" (Arendt 1972)—since the last Presidential election.²

As a strategic form of political intervention operating outside institutional channels, nonviolent direct action, in its un-permitted form, regroups asymmetrical “methods of protest” (Sharp 1973) that seek, through confrontation and risking arrest, to change established power dynamics and to force activists to position and confront themselves to the authorities. Examples of direct action includes die-ins, street protests in which participants seize public space and block traffic, unfurling banners, and interrupting public speeches or private events.

In the past decades, civil disobedience in the United States seems to have become increasingly accepted by the polity as a democratic practice, if not deemed entirely “appropriate,” thanks to its sustained bond with the reform and social movements of the nineteenth and twentieth centuries (Debouzy 2016). While political history and philosophy demonstrate that the concept is so volatile that it is impossible to derive a stable and uncontested definition of civil disobedience, its level of institutionalization within the American repertoire of contention has become widely discussed amongst scholars and activists, as some of them believe that the practice, in its liberal acceptance, has become ineffectual.³ The “Rawlsian consensus”—which implies that those who use disobedience adhere to the principle of superiority of law over force and therefore cannot challenge the prevailing social contract—might lead to an idealization of disobedience or even to activists abandoning it as it has come to be perceived as too respectful of institutions and as having lost its subversive streak (Milligan 2013).

In light of all of this, this paper examines the Resistance’s main repertoire of contention and its conception and practice of civil disobedience and nonviolent direct action. It investigates why activists who are dedicated to opposing the government seem to favor “conventional”

and permitted actions such as rallies and mass-demonstrations, and even sometimes acts of civil disobedience (#CancelKavanaugh/Be a Hero, #Trumpcare/Save our Healthcare) that are pre-negotiated with the police, over the more radical forms of nonviolent dissent or “political disobedience” that have recently emerged at Occupy Wall Street and then through the #BlackLivesMatter movement.

Using the tools of social movement studies and political sociology, this paper draws from the conclusions of my doctoral research and from data collected during an eighteen-month ethnography in New York City and Washington, D.C. from October 2016 to June 2018 amongst Resistance groups, and from interviews conducted with activists and veterans of organizations such as The Center for Popular Democracy, Rise and Resist, ACT UP New York, Gays against Guns, NYC Shut it Down and the Granny Peace Brigade.⁴ These advocacy and grassroots groups have all experienced an upheaval since the election of Donald Trump and one of them, Rise and Resist, was even born in response to it. They all embrace the repertoire of nonviolent direct action and in such place themselves within the American political tradition of civil disobedience.

Risking or Seeking Arrest in the United States in 2018

From the first wave of feminism to the civil rights movement to the fight against AIDS, direct action has been a steady feature of American social movements. Academia has had an ongoing interest in the subject, particularly within the field of political philosophy. Even if the practice and the theory of civil disobedience and direct action have rarely gone hand in hand, they have somehow concurrently evolved in the past decades and are currently undergoing profound changes.

Civil Disobedience and Nonviolent Direct Action in the 2010s: Towards a "Radical" Turn?

Civil disobedience, as a political practice, is traditionally used by activists working outside of regular institutional channels. They deliberately break the law nonviolently and are willing to accept the legal consequences of their actions (Perry 2013). The most noted contributors to the philosophy of this position in the United States (Henry David Thoreau, Martin Luther King, Jr., Hannah Arendt, John Rawls, Ronald Dworkin—this list is by no means exhaustive) have suggested that civil disobedience is first and foremost an evolving concept and that it is impossible to stabilize or fix an uncontested definition of the term. However, when practiced as a collective action and not as an individual act or a personal ethic, a certain consensus can be drawn around three different elements: the “public” nature of the act, which distinguishes it from criminal enterprise; its political claim, which considers that some laws can be broken for the common good; and that it can only be exercised within a democratic context, as disobeying the law under an oppressive regime is labeled as insurgency or terrorism (Mellon 2008; Ogien 2011). The boundaries between civil disobedience, non-violent resistance, and direct action are porous, especially on the activists’ side, as they rarely feel the need to draw separate lines between such concepts (Lovell 2009). In the “Letter from Birmingham Jail” (1963), a response to white religious leaders of the South, Martin Luther King, Jr. himself conflated the terms by interchangeably employing the expressions “nonviolent direct action”, “civil disobedience” and “non-violent witness” to defend his strategy for the Birmingham campaign.

According to Tony Milligan, even if civil disobedience is a problematic concept, most commentators agree that it is a form of address.

However, he notes that “preferences concerning how to define [it] are strongly shaped by the exemplars which are adopted,” (2013, 19). This contributes to explain why the notion is constantly evolving, and is exemplified by the difference drawn between its “direct” and “indirect” form – whereas the Greensboro sit-ins were challenging racial segregation head-on, blocking traffic to oppose the Iraq war lacked a straight connection with the issue protested.

In the second half of the twentieth century, and due to its strong ties with the social movements of the 1960s, a liberal acceptance of civil disobedience has been prevailing, led by John Rawls’ conception of the notion (1971). But for Robin Celikates (2014), by emphasizing its peaceful, respectful, and symbolic features, liberal theorists tend to depoliticize and ignore the complexities of civil disobedience as practiced in the twenty-first century. Occupy Wall Street seems to have marked a turning point for the critical analysis of disobedience because of its relative acceptance of violence against property and of its relationship with political institutions. Demonstrators radically rejected the legitimacy of the American political system, as illustrated by the slogan “this is what democracy looks like” that came from the popular chant of the 1999 WTO protests in Seattle (Kauffman 2016, 145). Within these circumstances, a broad wave of scholarly work from a younger and more radical generation of political thinkers (Carter 1998; Celikates 2016; Pineda 2015) has recently been challenging the liberal consensus. They are reassessing disobedience by foregoing the notion of civility, in order to accommodate this new political paradigm – the fact that contemporary protest movements such as Occupy or #BlackLivesMatter are “resist[ing] the very way in which we are governed,” and reject the legitimacy of political institutions and of higher law (Harcourt 2012, 33). In the wake of Donald Trump’s election, and as progressive forces have

aligned themselves in opposition to what they perceive to be a threat to democracy, one could think that this epistemological shift would translate en masse into disobedient actions. Understanding why Resistance activists are favoring permitted marches and events requires a look at how these take place and who organizes them.

Exercising One's First Amendment Right: Un-permitted Protest in Practice

As mentioned above, civil disobedience and nonviolent direct action in the twenty-first century seem to be well integrated within the American repertoire of contention (Hayes and Ollitrault 2012). However, they both remain radical forms of civic engagement, as they require physical commitment, risk-taking, as well as an unreserved acceptance of the legal consequences of one's actions.

Activists who are currently engaging in direct action draw from the work of previous movements, and most notably from the legacy of the women's, queer, peace, and ecology movements from the late 1970s and 1980s such as The Clamshell Alliance or the Seneca Women's Encampment for a Future of Peace and Justice. These movements were characterized by flat-power structures, caucuses, and direct or grassroots democracy through consensus decision-making. Their political commitment stemmed from their social identities and not from their ideological beliefs (Polletta 2002). As such, they were the polar opposite of the old Left and of the democratic-socialist or Marxist-Leninist groups that had traditional leadership models, top-down power structures, and rigid sets of creeds.

The Nonviolent Direct Action movement of the 1970s and 1980s had an "anarchist, antiauthoritarian impulse" (Epstein 1993, 17) that

relied heavily on affinity groups, which are small, decentralized, and flexible units of people that adopt a prefigurative approach (Breines 1989) and allow for planning actions collectively. For large-scale events such as Democratic or Republican National Conventions or international summits, groups partner with allies to form clusters that run on consensus decision-making (Graeber 2009). This model has since been taken on by later movements (Act Up, Direct Action Network, Occupy) and has come to be seen as a “defining structure [...] of direct-action organizing” (Kauffman 2016, 14).

Several key roles are allocated within affinity groups: direct participation that might lead to arrest, marshaling, jail support, street medic, spokesperson, police liaison, legal observer, and legal aid.⁵ Arrest is an occasion that requires strategic choices. Before and even during the action itself, groups can make decisions on their level of cooperation with police forces. During the different stages of detention, they can choose to collaborate to be released as soon as possible and go back to the action, or practice solidarity with the other arrestees by not cooperating. And finally, courts can be used as an opportunity to transform the judicial arena into a political stage.

This locally based model of organizing contrasts with how bigger organizations run their marches, and of which radical activists often disapprove. This disapproval is demonstrated in a recollection of the protest that took place at the 1984 Democratic National Convention. The protest was organized by a coalition that included the AFL-CIO as well as mainstream gay and lesbian groups—the action was, according to organizer David Solnit:

a living critique of the left's forms of protest: monitors con-

trolling and moving people like cattle, tactical leaders with bullhorns repeating monotonous chants, and even anti-nuclear sit-down-and-wait-for-the-police-to-arrest-you civil disobedience that felt too much on the terms of the police (as cited in Kauffman 2016, 84).

This testimony illustrates another distinct feature of direct action when done by grassroots groups: the refusal to collaborate with the authorities to organize a protest, since seeking a permit requires that activists hand over information and money to the police. Their main purpose, as the Lesbian Avengers (2011) articulate it, is to “not ask for permission to do actions and [...] not negotiate with the police in advance.” Of course, adopting and applying this stance requires that groups already possess or quickly gain a high degree of activist knowhow as they must engage with the police over what constitutes their First Amendment rights to free speech and freedom of assembly. Trainings and manuals abound to provide groups with this expertise, such as the “Protest Marshal Training Guide” of the New York chapter of the Democratic Socialists of America (2018, 2) that goes to great length to educate first-time activists on the legal and strategic choices they face when organizing an action:

Yes, you have First Amendment rights

- But these rights don't do much for you when you're in the street. The legal process is a back-up plan, to be adjudicated AFTER the right has been violated. We much rely **on each other, ourselves, and best practices** to stay safe and complete our goals at protests.

Do you need a permit to protest? It depends on what you want to do.

You don't need a permit if you want to

- distribute handbills on a public sidewalk, or in a

- public park;
- chanting/standing on a public sidewalk, so long as you don't block the way;
- have a demonstration, rally or press conference on a public sidewalk;
- or march on a public sidewalk and you **do not intend to used amplified sound.**

You DO need one if you want to use

- amplified sound on public property;
- want to have an event with more than 20 people in a New York City park;
- or wish to conduct a march in a public street, you will need a permit.

In keeping with their ethos of rejecting ideological rigidity and being pragmatic and strategic, direct-action groups do not outright reject participation in permitted events and can even, under special circumstances, seek a permit. One of the main reasons they do this is to make their events more inclusive of those who are deemed too vulnerable to risk arrest, such as undocumented people who would face deportation, lawful permanent residents who might encounter difficulties renewing their status or gaining citizenship, or public servants – teachers for example might be suspended if they were to face legal prosecution.

If civil disobedience and non-violent direct action have both come to be part of the “traditional” American repertoire of contention, not every U.S. citizen can seek or risk arrest. Indeed, only a narrow pool of activists, regardless of their ideological commitments, is able to bear the cost of un-permitted protest.

Who Can Bear the Costs of Risking and Seeking Arrest?

The legal restrictions mentioned above also extend to active duty military or anyone whose profession prohibits them from engaging in political activity, especially federal employees who are governed

by the Hatch Act of 1939. For the majority of Americans who work in the private sector, the First Amendment offers no guarantee of protection from being fired, as it only protects free speech from any action taken against it by the U.S. government. Private employers are prohibited from firing anyone because of their race, religion, or gender, but not because of their political affiliation or activities, even when those take place outside of the workplace. At a time when social media has taken such an important role in both organizing and activists' lives, the problem has become more acute.

Other more personal factors determine who faces greater risk when they are arrested. People with health issues, whether physical, mental, or emotional, are not outright precluded from engaging in civil disobedience. HIV-positive members were participating in every ACT UP action, and activists from Adapt are regularly arrested in their wheelchairs, but the experience of being handcuffed and subjected to highly stressful situations can take a particular toll on these individuals.

One last set of determining factors are the consequences that having a criminal record can have on one's life. Given the current criminalization of poverty, these consequences potentially exclude a sizable segment of the U.S. population from risking arrest in activism.⁶ People with previous felonies or misdemeanors—even if these offenses are old or unrelated to any political activity—might face higher charges or sentences than activists who have been arrested countless times but have never been convicted of anything.⁷ Parents or prospective adoptive parents are also more susceptible to the negative impacts of an arrest: if they have an open case with the Administration for Children and Families or if they seek to adopt a child, a criminal arrest could be brought to bear on those proceedings as well. In these circumstances, who are the activists that can engage in direct action?

Sociological Portrait of Direct-Action Activists

The activists documented in this study who are currently risking or seeking arrest in New York City fall within the demographics that previous studies of direct-action groups have identified (Epstein 1993; Kauffman 2016). The practice seems to be gendered, as women tend to engage in civil disobedience much more frequently than men do, which is something informants acknowledge in interviews but cannot explain. Queer women, men, trans and gender nonconforming people are disproportionately involved in these actions. A large number of the activists come from at least middle-class backgrounds and are, at a minimum, college educated. They most often have careers in healthcare, teaching, or social work, or they own businesses or work as artists. The majority of activists are age 50 or above, which means that a large proportion of them are retired and do not have young children.⁸ Being “biographically available” (McAdam 1988), they have time to plan actions, get arrested, and then go to court without having to lose a day’s work. Age is also a tactical advantage against the police, as the 73-year-old member of the Granny Peace Brigade Carolyn Hart explains: “It’s different for me as an older person. A lot of the police look at me as their grandparent.” Most of these activists are so well integrated into the protest networks that they can rely on the services of highly experienced movement lawyers who will support them pro bono in court and also advise them during planning.

Primarily, civil disobedience and un-permitted nonviolent direct action are sustainable activities because affiliated arrests have taken on a certain routine. Most activists only spend eight to ten hours in custody and are released with only a desk-appearance ticket, as opposed to being arraigned and released

on bail. This is exemplified by testimony from activist Elisabeth Nettle, member of Gays against Guns, describing her arrest after successfully shutting down Trump Tower for the second time:

Our getting arrested is arrest-light. We're sitting there as a group completely non-threatening. The police aren't chasing us down or threatened by us or angry at us. They're just bored. They're like "Oh God, more paperwork for me." You know. They take you in. We're sitting there with our friends for a few hours. And then let us out and there are people there waiting to give us a hug and a snack.

This testimony is also striking when put in perspective with the racialization of criminal justice that has been under way since the 1970s (Alexander 2010; Brewer and Heitzeg 2008) and which has led to the mass incarceration of people of color. In contrast to the civil rights movement, civil disobedience has now become a practice that is almost exclusively performed by white people. This shift is something activists are acutely aware of, as they are constantly being reminded of their "white privilege" when taking to the streets. As Catherine Day (Rise and Resist), Anna Blum (NYC Shut it Down) and Carolyn Hart (Granny Peace Brigade) explain:

And there was this one woman, older lady, and she was African American. And she was talking about, she... I didn't notice this I guess, it was just like, in there I didn't think about it with this lens, but there aren't black people, or you know, that get arrested. Or... very rarely. And no criticism of that, but just observ-, just observing that, realizing like I'm in a good position to cause this civil disobedience, to kind of needle people. Because I can take advantage of this white privilege. Whereas

people who are margin... They have to be extra careful. Look at the guys that are getting shot just because they're standing around. They're holding a cell phone or a bag of Skittles. So I can step up and do that. (Catherine Day)

All of these times in Shut it Down (a group affiliated with #BlackLivesMatter), you know, I've been just as arrestable as everyone else marching in the street without a permit. But like I've been physically shoved onto the sidewalk while someone else is pulled into handcuffs, you know, because.... whatever.... because I'm white and I'm small and... you know. (Anna Blum)

(imitates a white person in jail) "Can't I have a bottle of water? My handcuffs are too tight!" I understand it damages people, the handcuffs. And some, and people have really been injured. But there's a way in which the other day in, with the JVP (Jewish Voice for Peace), some of those kids had never been arrested before. [...] And, and so this one woman, who's just been arrested, first time or second time. Says to the police (imitates her) "My red barrette! You have one of my red barrettes! I got it in Denmark. Where did you put it? Can you find it for me?" This was in the police car. And I turned to her and I said "I think you need to be careful about interacting that way. If you were a person of color you would be slammed for saying so. So please..." It was hard for me, but I was so upset that she'd say (imitates the woman again) "Oh my red barrette!" Her hair barrette, I mean it's like... You know. And I've spoken to Sam about some of the, the having feeling like we need to talk about behavior when we're arrested. And to not use, you know... And to remember that yes, not all cops are bad, but they are part of the system, and that is who they work for. And

someone being nice or smiling at you doesn't mean in one second he won't turn around and beat someone up. (Carolyn Hart)

The activists that are currently risking or seeking arrest consider themselves to be part of the Resistance, an umbrella term for a counter-movement in which all Trump opponents can gather. But their philosophy and practice of direct action and civil disobedience differ from most of the protesters who have been convening all over the country in response to the 2016 election. If it is too early to make any conclusion regarding the scope and nature of the Resistance as it is ongoing, preliminary studies are already available on its first two years. They allow us to draw a broad portrait of the biggest movement the United States has seen since the 1960s.

The Trump Resistance: An Exploratory Portrait

A Grassroots and "Leaderful" Movement⁹

The Resistance started during Donald Trump's campaign and soared after his election. Several projects are attempting to map and analyze it, such as the Crowd Counting Consortium (2018), which gathers openly accessible information on protest events using local newspapers and television websites. It estimates that from the 2017 Women's March to December 31, 2017, there were 8,700 protests in the United States that drew between 5.9 million and 9 million people. 89% of these events were against Donald Trump and/or his political agenda.

Indeed, the 2016 election triggered a moral and emotional shock that has launched many activist careers (Jasper 2018), as new protesters have taken to the streets in droves and often with-

out any previous direct affiliation with a specific organization. Dana Fisher et al. (2017), in their study of the 2017 Washington, D.C. Women's March, demonstrate that the attendees tended to be highly educated white suburbanite women in their 40s. Fisher's subsequent research (2018a) reveals that those who participated in the three other most important marches that took place in Washington, D.C. in this period had similar profiles.¹⁰

Lara Putnam and Theda Skocpol (2018) have drawn the same conclusions, describing the typical members of the Resistance not as leftist Tea Partiers but as "retired librarians rolling their eyes at the present state of affairs, and then taking charge." Their careers as teachers, small business owners, nonprofit workers, or in social services have helped them quickly gain activist knowhow, as they were already accustomed to organizing meetings and events, often through their churches, unions, or Parent-Teacher Associations.

Putnam and Skocpol characterize these activists' political affiliations as progressive or left-of-center and report that they overwhelmingly voted for Hillary Clinton in the 2016 general election (2018). Far from being radicals striving for a complete overhaul of the system, they want to protect—not question—liberal democracy, and as such are able to connect with independents and disaffected Republicans. Their embrace of electoral politics and their engagement with the Democratic Party, seen as the only option in a country regulated by a two-party system, is highly pragmatic. They aim to reconnect with individuals at the local level to counter the infrastructural deficit of the DNC, which had led to the rise of the Tea Party and to the loss of local power for the Democratic Party in previous elections (Fisher 2018b). This approach

to organization contrasts with what Liza Featherstone (2017) defines as the “culture of consultation” in American politics, where citizens are treated as passive consumers, endlessly polled and focus-grouped, and not as participants in the political process.

Political practices seem to have changed since November 2016, and they are also challenging some of social movement studies’ core beliefs. For example, the notion of differential protest participation (Saunders et al. 2012) has been updated by Dana Fisher’s work on the Resistance. She remarked that activists have become “repeat protesters” (2018a, 11) that attend events that are addressing a wide variety of political issues – women’s rights, health care, gun rights and so on. It is a new phenomenon and attests to the intersectional inclination of the Resistance, but it is not the only way in which protesters behave unexpectedly.

Political engagement and first-time participation are also a stalwart that has been revised by the Resistance. Many people joined the Women’s March by themselves or after meeting online, often through the Pantsuit Nation Facebook group. But they had nobody to broker them in and no pre-existing group to join. Thus, large number of Resistance Groups were born on the buses back home. This is particularly true for the 5,000 local chapters of Indivisible that popped up after January 21, 2017. However, as Putnam and Skocpol describe it (2018), the Resistance is neither a national nor a local movement. It is decentralized, but not virtual. Groups take advantage of digital means of communication, but their actions are anchored in real-life and in the public sphere (taking to the streets, attending town halls, canvassing, phone banking, contacting an elected official). They are also highly pragmatic: local leaders adopt the strategies and frameworks of national organizations but pick and choose

what they think will be best under their specific circumstances. This is exemplified by groups in red states refusing to follow the Women's March call for a strike on National Women's Day in March 2017 and eventually starting a more grassroots network of organizations called March On (McSweeney and Siegel 2018). However, organizing big-scale events drawing hundreds of thousands of people requires resources and experience that only seasoned activists can match.

A Movement Coordinated by Nonprofits and Professional Organizers

According to resource mobilization theory (RMT), grievances alone are not sufficient to start a mobilization, as social movements must be produced and supported by organizations that can provide funding, supporters, media access, resources for coalition building, and access to power holders (McCarthy and Zald 1977). If the mass-marches that took place in 2017 were sparked by outraged citizens who published a call on Facebook, the actual organizing work was executed by experienced activists and professional organizers who had access to a wealth of resources and connections.¹¹ These massive events have provided great opportunities for nonprofits to reach out to a new crop of unaffiliated and unseasoned protesters, such as when the Hip Hop Caucus' "Respect My Vote" Campaign dispatched hundreds of volunteers tasked with registering young voters for the upcoming Midterms during the 2018 March for Our Lives (Fisher 2018b).

The relationship between Resistance groups and nonprofits cannot be fully explained by RMT, because it is a structural framework that ignores the strategic role that agency, culture, and emotions play in building and sustaining a movement (Jasper 2006). However, it is helpful to highlight the crucial role entrepreneurs have

played in the Resistance movement. The civil disobedience campaigns organized in Washington, D.C., mostly by the nonprofits Housing Works and the Center for Popular Democracy (CPD), are helmed by veterans of the grassroots organization such as ACT UP New York. The Women's March itself, far from being the flat power structure activists envisioned at its inception, is led by the former executive director of Al Sharpton's National Action Network (Tamika Malloy), the executive director of the Gathering for Justice (Carmen Perez), and the executive director of the Arab American Association of New York (Linda Sarsour). One could argue that their experience and knowhow is one of the reasons why an estimated five million people marched nationwide in January 2017 or why hundreds were arrested protesting the nomination of Brett Kavanaugh to the Supreme Court in September 2018.

The extensive role that nonprofits play in American politics can be traced back to the professionalization of activism that began in the 1970s (Walker et al. 2011). Radicals joined liberal organizations that decided to embrace electoral politics, lobbying, and top-down decision-making as a way to advance their agenda—for example, the National Organization for Women that spent two decades (unsuccessfully) pursuing the ratification of the Equal Rights Amendment. At the same time, community organizing has become a formalized career in its own right, which has led to the fragmentation of political labor and to a further rift between professional organizers and grassroots (i.e. unpaid) activists (Petitjean 2017; Polletta 2002). Political groups and social justice organizations are critical of the way the social movement arena is currently structured. Many decry it as a “non-profit industrial complex” (Smith 2017, x) in which organizations are financially controlled by foundations that sustain and uphold systems of domination. Indeed, according to Skocpol,

“subsidized philanthropy is literally at the heart of American public policy” (2016, 433); it allows politically engaged billionaires and millionaires to push their partisan agendas by setting up the foundations on which many groups rely to finance their activities.

The U.S. federal government is also involved in structuring activism, as all groups are required to have a formal structure if they want to function administratively on a basic level, such as being able to open a bank account to rent meeting space, print posters, or raise funds. Many choose to become 501(c) nonprofit organizations, which allows them to hold tax exempt status and, depending on the section they choose to file under, receive unlimited tax-deductible contributions from individuals, corporations, and unions. Even grassroots groups file for 501(c) status, as the risks of being charged with fraud by the IRS are too costly, and because other statuses are not as practical and flexible. Achieving this status compels these groups to comply with government requirements to write bylaws and policies to maintain and file proper records, and to be governed by an executive board rather than consensus-based or flat power structures. Given the number of attendees and the nature and demographics of its main organizers, it is therefore unsurprising that the Resistance’s repertoire of contention mainly consists of permitted events.

The Resistance in Action

The most famous and biggest Resistance actions have drawn massive crowds from all over the country. They, more or less, all follow the same broad strokes that combine having a rally and march marshaled by hundreds of volunteers with celebrity endorsements, jumbotrons, trademarked merchandise, branded logos, and 501(c)(4) organizations to raise funds. Ever since the 1963 March on

Washington, the capital has become accustomed to accommodating mass protests. The sheer scale of the Resistance's main events compelled the organizers to ask for a permit, as they do not share direct-action groups' culture of taking to the street to express their First Amendment rights. Nor do they have the experience to deal with the authorities—when their permit request for a march on the National Mall was denied, the main organizers of March for Our Lives quickly complied by holding a rally on Pennsylvania Avenue. The \$5 million event was run by Hollywood producer Deena Katz, sponsored by companies such as Bumble and Lyft, and funded with the help of celebrities such as Oprah Winfrey (Hoisington 2018). But the attendees did not march—they watched the rally broadcast, standing on the street and penned by police barricades. If demonstrations have become legitimate forms of political action that open temporary spaces for conflict, these big events are more akin to parades regulated by the authorities, and Resistance leaders, who are professional organizers, willingly cooperate with them. As mentioned, most attendees are new activists lacking knowhow. They tend to be averse to any potentially violent outburst, and working with the police is not an ideological issue for them. Seeking to accommodate these newcomers in such large numbers, organizers go out of their way to explain how to protest and to make their events as inclusive as possible. As the document “Frequently Asked Questions” prepared for the attendants of the Women's March on NYC (Siemionko 2016, 13) explains:

Safety: This is a peaceful march. If you riot in a manner that causes damage to city or private property, harm another human being, break the law, or willfully disrupt an otherwise peaceful march, no legal or financial assistance will be provided. You are on your own.

You march at your own risk. The NYPD is one of the best mobilized and well-trained law enforcement institutions in this country. They will keep you and the City safe. If a serious terrorist threat is received, the NYPD will notify us and we will cancel the event.

A team of volunteer Crowd Control and Monitor's will be onsite to assist in de-escalating tense situations.

Equality is truly for all. Please keep in mind that you may be marching next to a group whose beliefs conflict with yours. Allow yourself to be generous in spirit and see human first.

The Resistance has also been mobilizing new activists who are ready to take their political commitment to the next level by seeking arrest. They have organized several campaigns of massive civil disobedience to oppose Donald Trump's policies and decisions, such as his failed attempts to overhaul the Affordable Care Act, his successful tax cuts in 2017 or Brett Kavanaugh's appointment to the Supreme Court. These direct actions are usually devised and organized by the Center for Popular Democracy (CPD), sometimes in coalition with other nonprofits, and have managed to get several hundred people arrested in the same day.

These actions all follow the same script: small affinity groups comprised of people who never previously met gather in the atriums or corridors of the Congressional office buildings. They then start "people's lobby" visits, during which they make stops at targeted Congress members' offices. They deliver personal and emotional testimonies to aides, after which they refuse to leave the premises and are arrested while the crowd surrounding them chants loudly in support.

The visits are extended for as long as possible and are often repeated over several days, with the same people getting arrested over and over—something organizers refer to as a “catch and release” model.

Civil disobedience arrests in Washington, D.C. are conducted like a well-oiled machine—Carolyn Hart describes her experience there as “much more user-friendly than” in New York. When done the way nonprofits operate, they usually fall under post-and-forfeit charges. Activists tend to be released quickly, and rarely have to go to court to pay their \$50 fine. This, combined with the excitement and light peer pressure of the group and the drama of being so close to power, explains why people who have never been arrested are more willing to try it for the first time. As recalls Gays against Guns activist Ulrike Sims, talking about her first ever arrest:

Basically, the D.C. police, and I am not saying that all police are like this at all, you know, it would be different for me to be arrested in New York, I'm sure. Um. Basically, a lot of people said a D.C. arrest would be an easy arrest because they'd already been through the entire summer arresting people in wheel-chairs.

CPD provides pizza for the arrestees as well as hotel rooms for those staying for several days. They are able to mobilize activists through listservs and manage their campaigns via spreadsheets. People who want to come to Washington, D.C. fill in Google forms in which they indicate the level of risk and commitment they are willing to take and the role they want to play, whether to offer support, to share their personal and intimate story publicly, and/or to participate in what organizers call “arrest opportunities.” CPD then manages buses and other means of transportation and design

the master plan for their campaign. All decisions are made at the top as all of the actions are planned in advance. They sometimes instruct participants to not go limp and not to resist arrest, a personal choice that is usually left to individuals when the actions are devised by consensus. The authorities are not exactly tipped, but CPD's actions are not covert either, since they aim to get as many people as possible arrested on a single day. Police are there when groups enter the buildings and then swiftly arrest the trespassers as soon as they have given their third warning. This routine is not lost on more seasoned and radical activists who join these campaigns. Comparisons between the different methods of civil disobedience are telling in how the organizational structure and the culture of a group impacts participants' experiences. As explained by Nelson Rogers, member of Rise and Resist who participated in CPD actions:

I felt more supported with Rise and Resist. Getting out of jail and just having like a crowd of folks you know, cheering for you, that's you know, just a wonderful experience. Whereas with, um, in this case, like they did, there were like 180 people arrested, so you know they obviously have more on their plate and they also don't know you, you know. So like when I got out of jail there was one guy there who said "Oh you can go to the hotel down the street to get your stuff." So it isn't, doesn't have the same kind of joyous feeling. And, um, probably just because they were organizing, you know, so much more, including transport, and people with disabilities and everything. You maybe wound up feeling a bit more like a pawn or like just a body rather than, you know, having friends celebrate what you're all doing together.

Members of the Republican Party have portrayed those who participated in the September 2018 campaign to oppose the nomination of Brett Kavanaugh to the Supreme Court as “far-left mobs” (Carney 2018). Yet the reality on the ground was that activists were anything but the “middle-aged ladies” described by Fisher et al. (2017) and Putnam and Skocpol (2018).¹² The Trump administration has heightened the stakes for the American left, and the issue of political violence has resurfaced to become a source of dissension within the American political arena, as the backlash to antifascist organizing can attest (Bray 2017). But “progressive” activists are acting within a broader context in which political violence against people and against property has come to be reviled at most points on the political spectrum (Falciola 2015). Thus, they stay away from violent actions that would preclude them from gaining political legitimacy. Current Resisters are engaged in a process that, by gaining knowhow and seeking arrest, has led some towards the path of high-risk activism (Fillieule 2001). But the organizational constraints they face, shaped by the extensive involvement of nonprofits as well as their demographics, suggest that they are nowhere near tipping into more radical and violent ways of protesting (McAdam 1988). The 2020 Black Lives Matter protests did break the taboo of property destruction amongst the left, and they surprisingly did so while retaining support from a majority of U.S. adults (Thomas and Horowitz 2020). But they remain far from matching the legal and physical risks undertaken by feminist and temperance activists such as Carry Nation or Alice Paul and the Silent Sentinels.

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Endnotes

1 A Washington Post-Kaiser Family Foundation poll shows that from late 2016 to early April 2018, one out of five Americans participated in a march or a rally (Jordan and Clement 2018).

2 Writer and activist L.A. Kauffman (2018), using the resources of the *Crowd Counting Consortium*, shows that out of the 13,000 protests that took place all around the country during the first 14 months of the Trump administration, fewer than 200 were acts of civil disobedience.

3 For a summary of the debates, see Perry 2013, Celikates 2015, and Lovell 2009.

4 In keeping with academic customs, every informant quoted in this paper has been given an alias.

5 These last two roles can be taken on by external actors such as legal organizations that focus on civil liberties and dissent (National Lawyers Guild, Center for Constitutional Rights).

6 Moreover, the Brennan Justice Center estimates that 70 million Americans have a criminal record indexed by the FBI (Friedman 2015).

7 In New York State, the majority of civil disobedience cases do not get charged with more than a class B misdemeanor, as actions are often planned for the lowest-possible charges (a violation) and usually fall under trespassing, resisting arrest, disorderly conduct, unlawful assembly, failure to obey a lawful order of public officer, and obstructing government administration. Most of the time, activists are acquitted, their case is dismissed, or they get an Adjournment in Contemplation of Dismissal (ACD), which allows the court to dismiss the case and seal the records if the defendants “behave” and do not get arrested again for a period of six months. This explains why some people have been arrested over 40 times.

8 Several members of the Granny Peace Brigade were over 80 years old and still engaged in civil disobedience (Wile 2008).

9 The expression is used by the leaders of the Women's March: "[a] leaderful movement is a movement where there isn't a singular person whose vision creates the strategy but rather many people who can be visionary leaders. Ideas and power converge into something more powerful than what one leader could do on their own. It is like the force of a finger versus the force of a fist" (Janaye Ingram, quoted in *The Women's March Organizers* 2018, 47). It had previously been used by Opal Tometi, Alicia Garza, and Patrisse Cullors to describe #BlackLivesMatter.

10 These are the 2017 March for Science, the 2017 March for Racial Justice and the 2018 March for Our Lives.

11 Indeed, 400 organizations partnered with the 2017 Women's March (Planned Parenthood, the National Resources Defense Council, Black Lives Matter, and the American Civil Liberties Union).

12 "You saw our groups, right, we're mostly middle-aged ladies. For some reason this... Well, who can afford the time and the, you know... Middle-aged ladies, right? It... This seems to be a middle-aged-lady thing." Personal interview with Elisabeth Nettle.