

## Fight for your (climate) rights! Ethical, legal, and human rights perspectives on democracy and protest

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*The climate protests of Last Generation have not only garnered widespread attention but also sparked significant criticism. A key argument against their actions is that they undermine democratic processes and therefore pose a threat to democracy. Such critiques frame the group's environmental concerns as being in opposition to their critics' concerns for democracy. In this paper, we explore how this perceived tension between climate protection and democracy can be addressed. Drawing on ethical, legal, and human rights perspectives, we argue that this conflict cannot be resolved by simply prioritizing one side over the other. Instead, each of these perspectives affirms that both climate protection and democracy are fundamental values, state objectives, and legal principles. Consequently, we argue that the best way to address this tension is to fundamentally reframe the debate itself. Instead of asking whether "democracy or climate protection" should take priority, we should emphasize their interdependence and synergies – shifting toward a "democracy and climate protection" framework. To support this argument, we draw on Robin Celikates' concept of radical democratic civil disobedience, which allows us to perceive Last Generation's protest actions as a struggle for both climate justice and democracy.*

### Introduction

What we are witnessing today, according to German protest researcher Tareq Sydiq in his latest work, is the rise of a *new culture of protest*.<sup>1</sup> Yet, what makes this culture "new", according to Sydiq, is not so much the issues at stake – what people are protesting for or against – nor the forms of protest themselves, even though new technologies have introduced fresh dynamics.<sup>2</sup> Rather, what defines this *new culture of protest* is a renewed

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<sup>1</sup> Tareq Sydiq. *Die neue Protestkultur. Besetzen, kleben, streiken. Der Kampf um die Zukunft*. München: Hanserblau, 2025.

<sup>2</sup> Zeynep Tufekci. *Twitter and Tear Gas. The Power and Fragility of Networked Protest*. New Haven, London: Yale University Press, 2017; Athina Karatzogianni et al. (ed.), *Protest Technologies and Media Revolutions. The Longue Durée*. Bingley: Emerald Publishing, 2018; Nils B. Weidmann & Espen Gellmuyden Rød. *The Internet and Political Protest in Autocracies*. New York: Oxford University Press, 2020.

growing global awareness of protest as a powerful tool of political expression and participation—one that is increasingly recognized as essential in the “struggle for the future.”<sup>3</sup> Sydiq sees this shift reflected in movements such as the so-called *headscarf protests* in Iran, the political demonstrations in Hong Kong, the revolution(s) and counterrevolution(s) in Sudan, as well as resistance against right-wing shifts across Europe and the United States. Not least among these movements are the global climate and environmental protests, with Sydiq paying particular attention to the actions of *Last Generation*.

Sydiq’s focus on the protests of *Last Generation* can be explained by two key factors. First, their actions have garnered massive media attention and sparked intense public controversy—particularly in Germany—due to their “disruptive”<sup>4</sup> nature. Second, the debates surrounding *Last Generation*’s protests provide a particularly revealing case for analyzing the relationship between protest and democracy in general. Across media, public discourse, and academic debates, *Last Generation*’s protests are frequently portrayed as a *threat to democracy*—or even as fundamentally anti-democratic. Critics from different fields argue that the movement’s methods undermine democratic processes and, in doing so, endanger democracy itself. This framing constructs a deeper tension between protesters, their supporters, and their dual commitment to climate protection and democracy—echoing similar accusations leveled against other protest movements.

It is precisely this framing—one that positions protest as a threat to democracy—that this paper seeks to interrogate, using *Last Generation* and the discourse surrounding their protests as a case study. At its core, this analysis asks: How can this supposed tension between protests and their goals—in this case: climate protection—and democracy, which these protests are said to endanger, be negotiated? To address this question, we will first examine *Last Generation*’s protests, the controversies they have ignited, and the broader tension framed between climate action and democracy. From there, we will analyze this supposed conflict through three different lenses: first, an ethical perspective; second, a legal perspective; and finally, a human rights perspective. However, as we will see, none of these perspectives offer a clear resolution in favor of one side over the other. From ethical, legal, and human rights standpoints alike, *both* climate protection *and* democracy emerge as essential values, legal interests, and rights. Ultimately, this analysis will suggest that the oftentimes proposed conflict between protests and their goals and democracy is itself a misleading construct. Rather than treating the two as opposing forces, we should recognize that democracy and climate protection in particular as well as democracy and protest in general *can* and maybe even *must* go hand in hand—calling for a fundamental reframing of the debate itself. This argument is ultimately reinforced by reflections from political theory on the concept of civil disobedience.

### **Climate protests in Germany and the controversies they spark**

*Last Generation* has drawn widespread attention both in Germany and internationally through a series of disruptive protests, many of which have sparked intense public controversy. Some of their most high-profile actions in Germany include throwing mashed

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<sup>3</sup> Sydiq, *Die neue Protestkultur*.

<sup>4</sup> *Last Generation* themselves actively employ the term “disruptive” to describe their protests. This characterization has since been widely adopted in media reporting and public debate. See *Letzte Generation*. Strategy for 2024, online at <https://letztegeneration.org/en/strategie/> (accessed 2025-02-06).

potatoes at Claude Monet's *Grainstacks* in Potsdam's *Barberini Museum*,<sup>5</sup> spraying Berlin's *Brandenburg Gate* with orange paint,<sup>6</sup> and blocking major roads, intersections, and even airport runways.<sup>7</sup> The latter blockades typically involve groups of predominantly young activists – often wearing high-visibility vests – gluing their hands to the ground to obstruct traffic or air travel. The rationale behind these actions is to use highly symbolic acts that attract national and international media attention to raise urgent awareness of the “climate crisis”<sup>8</sup> and increase pressure on political decision-makers to accelerate the transition to sustainable energy and other climate-friendly policies.<sup>9</sup> The protesters take care to minimize harm: in paint attacks, they use washable paint and target well-protected or easy-to-clean objects, while in road blockades, they ensure openings for emergency vehicles.<sup>10</sup> In short, they strive to make their actions as nonviolent as possible. Additionally, both individual activists and *Last Generation* as a movement have repeatedly stressed that they view their protests as *a last resort*, given what they see as the failure of established democratic processes to achieve meaningful progress in climate policy.<sup>11</sup>

Reactions to *Last Generation's* protests have been sharply divided – both in the media and in the public, as well as in academic and political discourse. While some applaud the activists' commitment, others have strongly condemned their methods. Olaf Scholz, who served as Germany's Chancellor from 2021 to 2025, during the height of *Last Generation's* protests, dismissed the group as “totally crazy” (*“völlig bekloppt”*).<sup>12</sup> Meanwhile, leading members of the *Christian Democratic Union* (Germany's most popular

<sup>5</sup> Sam Jones. ‘Climate activists throw mashed potatoes at Monet work in Germany’. *The Guardian* (2022-10-23), online at <https://www.theguardian.com/environment/2022/oct/23/climate-activists-mashed-potato-monet-potsdam-germany> (accessed 2025-02-07).

<sup>6</sup> The Associated Press. Climate activists spray Berlin's Brandenburg Gate with orange paint (2023-09-17), online at <https://apnews.com/article/climate-protest-last-generation-brandenburg-gate-paint-9518c67e688628c89e65e106e346b900> (accessed 2025-02-07).

<sup>7</sup> Deutsche Welle. German climate protesters glue themselves to Berlin streets (2023-04-24), online at <https://www.dw.com/en/germany-climate-activists-glue-themselves-to-berlin-streets/a-65416427> (accessed 2025-02-07); Reuters. Climate activists breach security at four German airports (2024-08-15), online at <https://www.reuters.com/world/europe/two-german-airports-temporarily-suspend-flights-over-climate-activists-2024-08-15/> (accessed 2025-02-07).

<sup>8</sup> The use of the term “climate crisis” is not without controversy with some critics arguing that it introduces introduces normatively charged or even suggestive language into what they believe should remain a “neutral” description of climatic developments. While we acknowledge this debate, we deliberately choose to use “climate crisis” in this article. This choice reflects not only the urgency attributed to the issue by a growing number of scholars, activists, and political leaders, but also the increasingly evident and devastating consequences of climate change—already observable today and disproportionately affecting vulnerable populations. That's why, in our opinion, the term “climate crisis” is not only ethically, politically, and empirically justified, but perhaps even the more appropriate term to describe the current situation—precisely because so-called “neutral” descriptions are never truly neutral, and can risk downplaying the severity of the challenges we face.

<sup>9</sup> Last Generation. Hand on Heart—Democracy Needs Honesty, online at <https://letztegeneration.org/en/erklaerung/> (accessed 2025-02-07).

<sup>10</sup> Last Generation. Values & Protest Consensus, online at <https://letztegeneration.org/en/mitmachen/werte-protestkonsens/> (accessed 2025-02-07).

<sup>11</sup> Letzte Generation. Wer wir sind - Letzte Generation, online at <https://letztegeneration.org/wer-wir-sind/> (accessed 2025-01-29).

<sup>12</sup> Der Spiegel. Letzte Generation: Scholz findet Klebe-Aktionen »völlig bekloppt« (2023-05-22), online at <https://www.spiegel.de/politik/olaf-scholz-zu-letzte-generation-kanzler-bezeichnet-klebe-aktionen-als-voellig-bekloppt-a-8c459d08-5530-46be-91e4-4108da36fceb> (accessed 2025-01-29).

political party), including the candidate widely expected to become the next Chancellor, have likened the group to criminals, hooligans, and even terrorists.<sup>13</sup>

This rhetoric is mirrored in legal actions, as many climate activists have indeed been implicated in incidents involving collateral damage,<sup>14</sup> with some even facing criminal charges, including coercion.<sup>15</sup> Further legal actions have included charges of resisting law enforcement officers and, more recently, allegations of forming a criminal organization under §129 of the German Penal Code (*Strafgesetzbuch*)<sup>16</sup> – a statute originally designed to target organized crime.<sup>17</sup> The outcome of this case, still pending, could have significant implications. A court ruling classifying *Last Generation* as a criminal organization would not only impact its members but could set a precedent that exposes the logistical, legal, media, and political apparatus supporting the group to scrutiny for its alleged promotion of a criminal organization. Such a precedent could have far-reaching implications for other climate activism groups in Germany as well.

Beyond the legal sphere, critics from various disciplines have challenged *Last Generation* from a democratic theory perspective. Some theologians, for instance, contend that the movement's methods bypass democratic processes, allowing a vocal minority to impose its political position without seeking broader societal consensus.<sup>18</sup> Similar concerns surface in media and public debates, where *Last Generation* is repeatedly accused of undermining democracy and making a “mockery of democracy and the rule of law”<sup>19</sup> – or, at the very least, where the compatibility of their protests with democratic principles is

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<sup>13</sup> Frankfurter Allgemeine Zeitung. Merz nennt Klimaaktivisten “kriminelle Straftäter” (2022), online at <https://www.faz.net/aktuell/politik/inland/merz-nennt-klimaaktivisten-kriminelle-straftaeter-18490178.html> (accessed 2025-01-29); Ferdinand Otto. ‘Alexander Dobrindt: “Die Entstehung einer Klima-RAF muss verhindert werden“’. Zeit Online (2022-11-06), online at <https://www.zeit.de/politik/deutschland/2022-11/alexander-dobrindt-klimaaktivisten-strafen-raf> (accessed 2025-02-13).

<sup>14</sup> One of the most high-profile cases in which protesters from Last Generation were accused of causing significant collateral damage occurred in November 2022. That month, a cyclist died following a traffic accident near a Last Generation protest in Berlin. While early reports suggested that an emergency vehicle had been delayed due to the protest, prosecutors later concluded that the group could not be held liable for assault or homicide. See rbb. Staatsanwaltschaft: Klima-Aktivisten nicht für Tod von RadfahrerIn verantwortlich (2024-04-13), online at <https://www.rbb24.de/panorama/beitrag/2023/04/berlin-radfahrerIn-tod-klima-aktivisten-rettungseinsatz-keine-verantwortung.html> (accessed 2025-01-29); Dieter Rucht. ‘Die Letzte Generation: Eine kritische Zwischenbilanz’. *Forschungsjournal Soziale Bewegungen* 36:2 (June 2, 2023): 186–204.

<sup>15</sup> Lena Herbers. ‘Ziviler Ungehorsam. Straftat oder legitimer Protest?’. *Forschungsjournal Soziale Bewegungen* 36:2 (2023), 314–327.

<sup>16</sup> German Criminal Code (2021-11-22), translated by Michael Bohlander, online at [https://www.gesetze-im-internet.de/englisch\\_stgb/englisch\\_stgb.html](https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html) (accessed 2025-02-06).

<sup>17</sup> Katrin Höffler. ‘Ziviler Ungehorsam. Testfall für den demokratischen Rechtsstaat’. *Verfassungsblog* (2023-05-25), online at <https://verfassungsblog.de/ziviler-ungehorsam-testfall-fur-den-demokratischen-rechtsstaat/> (accessed 2025-02-13).

<sup>18</sup> Ulrich Körtner. ‘Die letzte Generation?’ *Zeitzeichen* (2022-12-28), online at <https://zeitzeichen.net/node/10214> (accessed 2025-01-29); Hans-Richard Reuter, ‘Klimaprotest als ziviler Ungehorsam. Liberal oder radikal?’ *Zeitschrift für evangelische Ethik* 67:3 (2023): 165–70; Thomas Martin Schneider. *Kirche ohne Mitte? Perspektiven in Zeiten des Traditionsabbruchs*. Leipzig: Evangelische Verlagsanstalt, 2023.

<sup>19</sup> Reinhard Müller. ‘Die Verhöhnung von Demokratie und Rechtsstaat’. *FAZ* (2022-11-03), online at <https://www.faz.net/aktuell/politik/inland/letzte-generation-und-klimaaktivismus-die-groesste-gefahr-18432010.html> (accessed 2025-02-07).

repeatedly questioned, often in a critical or suggestive manner.<sup>20</sup> Alongside the claim that *Last Generation* circumvents established political processes, critics often argue that by fostering public skepticism and deepening societal polarization, the movement threatens the very foundations of social and democratic cohesion.

Viewed from a broader perspective, these criticisms illustrate how *Last Generation's* climate protests are framed as being in direct opposition to democracy.<sup>21</sup> This framing constructs a dichotomy with climate protection being pitted against democracy, and with *Last Generation* positioned as advocates for the climate but portrayed as a threat to democratic order.<sup>22</sup> Meanwhile, their critics position themselves as defenders of democracy. This constructed opposition has increasingly shaped both public and media discourse surrounding *Last Generation's* protests. As a result, activists are forced to prove that their actions do not threaten democracy, while the broader public is pressured to take sides in this supposed conflict between climate protection and democracy.<sup>23</sup> But what is

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<sup>20</sup> See, for example, Tom Mannewitz. 'Zur Nötigung genötigt? Die "Letzte Generation" zwischen Extremismusvorwurf und zivilem Ungehorsam'. Konrad Adenauer Stiftung (2023-02-16), online at <https://www.kas.de/de/web/die-politische-meinung/artikel/detail/-/content/zur-noetigung-genoetigt> (accessed 2025-02-07); Christoph Schäfer. 'Radikaler Aktivismus. Wie viel Klimaprotest verträgt Demokratie?' Deutschlandfunk (2023-05-31), online at <https://www.deutschlandfunk.de/radikaler-aktivismus-wie-viel-klima-protest-vertraegt-demokratie-dlf-7b8f2bce-100.html> (accessed 2025-02-07); Sebastian Thomas. 'Letzte Generation: Schadet die Protestform der Demokratie?' Vorwärts (2024-04-28), online at <https://vorwaerts.de/inland/letzte-generation-schadet-die-protestform-der-demokratie> (accessed 2025-02-07).

<sup>21</sup> One factor that very likely contributes to the strong criticism—and at times harsh rhetoric—directed at *Last Generation* and their protests, and perhaps also to the construction of the dichotomy between climate protection and democracy, is the fact that Germany has already adopted a number of progressive climate protection measures and laws, especially in comparison to other European and international contexts. These include, among others, the Renewable Energy Sources Act (Erneuerbare-Energien-Gesetz), the Coal Phase-out Act (Kohleausstiegsgesetz), and the Climate Protection Act (Bundes-Klimaschutzgesetz), which will be addressed in more detail later. Against this backdrop, the actions of *Last Generation* might be viewed as devaluing these democratically achieved milestones and as potentially undermining democratic processes more broadly.

<sup>22</sup> The dichotomy between "climate protection" and "democracy" identified above—frequently encountered in public and political discourse surrounding *Last Generation*—is, of course, a simplification that overlooks the broad spectrum of positions within each. Public support for climate action in Germany remains relatively high, but often varies in intensity—with many people endorsing moderate activism, while tending to be more skeptical of disruptive or radical forms of activism. Similarly, conceptions of democracy differ significantly, ranging from proceduralist and liberal models to more participatory or agonistic understandings. While a more comprehensive analysis would need to take this plurality into account, for the sake of analytical clarity in this contribution we focus on the "simplified" dichotomy as it is most commonly represented in public and political discourse. For more detailed discussion that considers the varieties of climate activism and their democratic implications, see our forthcoming articles in *Cursor\_* (2025): Analucia Löschcke Centeno and Max Tretter. 'Of Climate Protests, Symbolic Acts, and Joder: Theological Reflections on Annoying Forms of Activism' *Cursor\_* (2025) and Max Tretter. 'Radical Activism, Abolitionism, and Proportionality: Lessons for (Theological) Ethics' *Cursor\_* (2025).

<sup>23</sup> Framing climate activism as being in conflict with democracy not only places activists in a defensive position—forcing them to justify the democratic legitimacy of their actions—but also risks undermining the broader cause they represent: climate protection. When protests by *Last Generation* are portrayed as illegitimate or as a threat to democratic order, public trust may be weakened not only in the group itself, but in climate activism more broadly, including the perceived urgency and legitimacy of ambitious climate action. In this way, the discourse surrounding *Last Generation* affects more than just the activists—it may erode public support for climate policy as such. Given that, according to the most recent Ipsos study from April 2025, a clear majority in Germany still supports climate protection in principle, but the share of those who feel responsible to act has dropped from 69% to 53% since the previous survey from 2021, this risk of further delegitimization becomes all the

the “right” decision in the face of this dichotomy? The following sections will explore this question from multiple perspectives.

### Climate protection or democracy? Ethical perspectives

As discussed in the previous section, the debate over *Last Generation's* protests is framed as a binary opposition: one side is portrayed as advocating for climate action but accused of endangering democracy, while the other side is positioned as defending democracy. Within this framework, both sides can appeal to significant ethical principles to support their positions. On one hand, there is the urgent need to combat climate change to prevent severe long-term harm—especially in regions of the Global South.<sup>24</sup> On the other, there is the fundamental obligation to protect democracy and uphold democratic core principles such as freedom, equality, and political participation.

Attempting to resolve this opposition through ethical reasoning quickly runs into difficulties, as neither principle can be clearly and un-disputably prioritized over the other. While some argue that safeguarding the climate is a prerequisite for democracy to exist, making climate protection a fundamental priority,<sup>25</sup> others assert that democracy provides the essential framework for achieving meaningful climate action, warning against any measures that might undermine democratic principles in the name of climate protection. Similarly, while some stress that climate protection is the more urgent issue—since climate change will ultimately affect everyone<sup>26</sup>—others argue that its most severe consequences will unfold gradually, allowing time for (technical) solutions to emerge. In contrast, they contend that democracy faces immediate crises,<sup>27</sup> making its preservation the more pressing concern.

Given these arguments, single individuals may gravitate toward the side that aligns more closely with their personal convictions, supporting either the climate protesters or their critics. However, from a more “objective” perspective, it must be acknowledged that both sides present compelling arguments, making it difficult—if not impossible—to determine whether climate protection or democracy should be considered the more *fundamental* or *urgent* priority. This leads to a crucial question: If neither climate protection nor democracy can be *ethically* prioritized over the other, how can this conflict be meaningfully addressed?

### Legal perspectives

One possible approach to resolving this issue is to shift the debate from an ethical framework to a legal one, examining which of the two concerns—climate protection or

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more serious. See: Ipsos. People and Climate Change. Public attitudes to the Climate Crisis and the transition to Net Zero (2025-04), <https://resources.ipsos.com/rs/297-CXJ-795/images/People%26ClimateChange2025.pdf?version=0> (accessed 2025-04-22).

<sup>24</sup> Peter Singer. *Practical Ethics*, third edition. Cambridge: Cambridge University Press 2011 (1979), pp. 216-237; Humberto Basilio. ‘Extreme heat will kill millions of people in Europe without rapid action’. *Nature* 638:8049 (2025), pp. 17-18, <https://doi.org/10.1038/d41586-025-00239-4>.

<sup>25</sup> Friederike Otto. *Klimaungerechtigkeit: Warum die Klimakatastrophe mit Kapitalismus, Rassismus und Sexismus zu tun hat*, second edition. Berlin: Ullstein, 2024 (2023).

<sup>26</sup> Singer, *Practical Ethics*; Basilio, *Extreme Heat*; Otto, *Klimaungerechtigkeit*.

<sup>27</sup> Craig Calhoun, Dilip Parameshwar Gaonkar and Charles Taylor. *Degenerations of Democracy*. Cambridge: Harvard University Press, 2022.

democracy – takes precedence from a legal perspective. Various legal frameworks could be relevant here: individual nations have their own laws, and in some countries, such as Germany or the United States, federal laws apply nationwide, while state laws govern at the regional level. Furthermore, supranational legal frameworks, such as those of the European Union, also come into play. At all these levels, laws exist that address both the protection of democracy and climate action. A thorough legal analysis would need to account for these laws, their hierarchies, and their interactions.

To avoid overextending our expertise and because a narrower focus is sufficient for the conclusion we aim to reach, we will simplify this complexity and concentrate solely on federal law in Germany, setting aside state-specific differences and European legislation, as our case study is based there. In Germany, numerous laws are designed to safeguard democracy and address climate protection. In recent years, targeted legislation – such as the Renewable Energy Sources Act (*Erneuerbare-Energien-Gesetz*),<sup>28</sup> the Coal Phase-out Act (*Kohleausstiegsgesetz*),<sup>29</sup> and the Climate Protection Act (*Bundes-Klimaschutzgesetz*)<sup>30</sup> – has been introduced to advance climate goals. However, the most fundamental legal framework is the German constitution, known as the Basic Law (*Grundgesetz*), which defines the objectives of the Federal Republic of Germany and provides the foundation for all legal texts and policies.

If we draw on this Basic Law to gain a new perspective on the above conflict, two observations can be made. First, Article 20 of the Basic Law explicitly defines Germany as a democratic state: “(1) The Federal Republic of Germany is a democratic and social federal state. (2) All state authority is derived from the people [...].” This article assigns democracy a uniquely elevated status, granting it the highest level of legal protection. Under no circumstances may the democratic order be endangered. This protection is so robust that Article 20, Paragraph 4, even provides citizens with the right – some scholars might even call it a duty – to resist any attempt to abolish the democratic constitutional order: “(4) All Germans shall have the right to resist any person seeking to abolish this constitutional order if no other remedy is available.”<sup>31</sup>

Democracy, as affirmed by this article of the Basic Law and supported by its legal interpretations,<sup>32</sup> is a fundamental value that must be rigorously protected. However, this does not imply that democracy is inherently more important than other fundamental values like, for instance, climate protection. Accordingly, Article 20 cannot and should not be interpreted as necessarily mandating alignment with those who oppose climate protests in the name of defending democracy. Particularly regarding climate protection, Article 20a provides a critical clarification. Introduced into the Basic Law after Article 20 on October 27, 1994, and effective as of November 15, 1994<sup>33</sup> – more than 45 years after the Basic Law

<sup>28</sup> *Erneuerbare-Energien-Gesetz* (2023-05-27), online at [https://www.gesetze-im-internet.de/eeg\\_2014/](https://www.gesetze-im-internet.de/eeg_2014/) (accessed 2025-02-07).

<sup>29</sup> *Kohleausstiegsgesetz* (2022-12-19), online at <https://www.gesetze-im-internet.de/kohleausg/index.html> (accessed 2025-02-07).

<sup>30</sup> *Bundes-Klimaschutzgesetz* (2023-07-17), online at <https://www.gesetze-im-internet.de/ksg/index.html> (accessed 2025-02-07).

<sup>31</sup> Basic Law for the Federal Republic of Germany (2022-12-19), translated by Christian Tomuschat, David P. Currie, Donald P. Kommers, and Raymond Kerr, online at [https://www.gesetze-im-internet.de/englisch\\_gg/](https://www.gesetze-im-internet.de/englisch_gg/) (accessed 2025-01-17).

<sup>32</sup> Christian Bumke and Andreas Voßkuhle. *German Constitutional Law. Introduction, Cases, and Principles*. Oxford: Oxford University Press, 2019, pp. 321–332.

<sup>33</sup> Jan-Louis Wiedmann. ‘Umweltschutz, Art. 20a GG’, in *Staatsorganisationsrecht: Klausur- und Examenswissen*, edited by Valentina Chiofalo, Louisa Linke and Jaschar Kohal. Berlin: Walter de Gruyter, 2022, pp. 246–247.

was first enacted<sup>34</sup>—Article 20a designates the protection of the “natural foundations of life”<sup>35</sup>—and since its amendment in 2002, the protection of animals<sup>36</sup>—as a state objective grounded in the “responsibility towards future generations.”<sup>37</sup>

“Mindful also of its responsibility towards future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.”<sup>38</sup>

For many years, the interpretation of Article 20a remained ambiguous, prompting extensive debate. However, in 2021, the Federal Constitutional Court (*Bundesverfassungsgericht*)—the highest authority in Germany for constitutional interpretation—delivered a “landmark ruling”<sup>39</sup> that established a clear precedent for understanding Article 20a. In its Order of 24 March 2021, the Federal Constitutional Court determined that, under Article 2, Paragraph 2, Sentence 1 of the Basic Law, which guarantees every individual the “right to life and physical integrity”,<sup>40</sup> people must also be protected from the impacts of environmental pollution, as these impacts pose a significant threat to their constitutionally guaranteed physical integrity.<sup>41</sup>

“The protection of life and physical integrity under Art. 2(2) first sentence of the Basic Law encompasses protection against impairments of constitutionally guaranteed interests caused by environmental pollution, regardless of who or what circumstances are the cause. The state’s duty of protection arising from Art. 2(2) first sentence of the Basic Law also encompasses the duty to protect life and health against the risks posed by climate change. It can furthermore give rise to an objective duty to protect future generations.”<sup>42</sup>

Building on this landmark ruling—that the state is obligated to protect individuals from the consequences of environmental pollution (which explicitly includes the effects of climate change, as it stems directly from such pollution)—the Federal Constitutional Court

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<sup>34</sup> Christoph Möllers. *Das Grundgesetz: Geschichte und Inhalt*. München: C.H. Beck, 2009.

<sup>35</sup> Basic Law for the Federal Republic of Germany. The German Basic Law refers to the “natural foundations of life”, a term that encompasses broad environmental concerns—including ecosystems, biodiversity, and natural resources—beyond climate protection in the narrower sense. While we acknowledge this broader scope, our discussion explicitly focuses on climate protection, reflecting the specific context of the protests and legal cases analyzed in this article. This understanding aligns with the interpretation of the Federal Constitutional Court, which we will present in more detail later in this section.

<sup>36</sup> Andreas Buser. ‘Tierschutz, Art. 20a GG’, in *Staatsorganisationsrecht: Klausur- und Examenswissen*, edited by Valentina Chiofalo, Louisa Linke and Jaschar Kohal. Berlin: Walter de Gruyter, 2022, pp. 248–252; *Wie Umwelt- und Tierschutz ins Grundgesetz kamen (2013-12-02)*, online at [https://www.bundestag.de/webarchiv/textarchiv/2013/47447610\\_kw49\\_grundgesetz\\_20a-213840](https://www.bundestag.de/webarchiv/textarchiv/2013/47447610_kw49_grundgesetz_20a-213840) (accessed 2025-01-17).

<sup>37</sup> Basic Law for the Federal Republic of Germany. For more information on the topic of responsibility towards future generations and sustainability within German legal contexts, see Michael Kleiber. *Der grundrechtliche Schutz künftiger Generationen*. Tübingen: Mohr Siebeck, 2014; Andreas Glaser. *Nachhaltige Entwicklung und Demokratie*. Tübingen: Mohr Siebeck, 2006.

<sup>38</sup> Basic Law for the Federal Republic of Germany.

<sup>39</sup> Deutscher Bundestag. Wissenschaftliche Dienste. *Umweltschutz nach Verfassungsrecht und Beteiligungsrecht gemäß Aarhus-Konvention (2024-08-19)*, online at <https://www.bundestag.de/resource/blob/1021388/24e2347301180edef4acd847475661a7/WD-5-118-24-pdf.pdf> (accessed 2025-01-17).

<sup>40</sup> Basic Law for the Federal Republic of Germany.

<sup>41</sup> Federal Constitutional Court, Order of 24 March 2021 (2021-03-24), online at [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324\\_1bvr265618en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324_1bvr265618en.html) (accessed 2025-01-17).

<sup>42</sup> Federal Constitutional Court, Order of 24 March 2021.



outlines in Paragraphs 2 through 5 the implications of this Order for the interpretation of Article 20a of the Basic Law and the resulting obligations for the state. Without delving deeply into the legal debates, the court concludes that Germany's constitutional duty to safeguard against the effects of climate change obligates the state to strengthen its climate protection measures – while also ruling that existing measures have been insufficient.<sup>43</sup> At the same time, the court emphasizes that this constitutional mandate for climate protection must not be pursued at the expense of other interests, particularly those rights and principles equally enshrined in the Basic Law. Instead, as explicitly stated in Section 2a of the Federal Constitutional Court's Order, in cases of conflict, a careful balancing of constitutional interests and principles is required:

"Art. 20a of the Basic Law does not take absolute precedence over other interests. In cases of conflict, it must be balanced against other constitutional interests and principles. Within the balancing process, the obligation to take climate action is accorded increasing weight as climate change intensifies."<sup>44</sup>

With this clarification, the Federal Constitutional Court affirms that the constitutional right to climate protection cannot and should not be used to override other constitutional rights – meaning that democracy or other fundamental rights may not be "sacrificed" in the name of climate protection. At the same time, this Order elevates climate protection to the status of a state objective and a fundamental right. Thus, we find ourselves back at the beginning: grappling with a conflict between climate protection and the preservation of democracy. The key difference, however, is that these are no longer framed "only" as "ethical goods" but also as "fundamental rights" and "state objectives", both safeguarded by German law at the highest level. In summary, while shifting from an ethical to a legal framework has indeed brought some new aspects to light, it has not resolved the core challenge. This prompts the question: How do we move forward? Is there yet another way to resolve the initial question?

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<sup>43</sup> Federal Constitutional Court, Order of 24 March 2021. The Constitutional Court's call for the Federal Republic of Germany to strengthen its climate protection measures has also been met with criticism. Some argue that the German state—like any single state—has only limited agency when it comes to addressing global climate change. Since climate change is driven by transnational and cumulative emissions, even the most ambitious national climate policies are said to be insufficient unless matched by comparable efforts elsewhere. From this perspective, and following the ethical principle that "ought implies can," critics suggest that Germany cannot be held responsible for solving a problem it cannot solve alone. This line of reasoning has become so prominent that the Federal Constitutional Court addressed and explicitly rejected it in Paragraph 2c of its 2021 climate ruling: "The fact that no state can resolve the problems of climate change on its own due to the global nature of the climate and global warming does not invalidate the national obligation to take climate action. Under this obligation, the state is compelled to engage in internationally oriented activities to tackle climate change at the global level and is required to promote climate action within the international framework. The state cannot evade its responsibility by pointing to greenhouse gas emissions in other states." Rather than deriving the incapacity of individual states from global interdependencies—and thus rejecting any attribution of responsibility—the Court explicitly emphasizes that every state remains obligated to contribute to solving global problems within the scope of its capabilities. By doing so, a state may inspire others and help initiate broader international efforts. A similar line of argument is regularly advanced by scholars and policymakers, who underscore Germany's frequently invoked leading role in climate policy, stressing that Germany's actions can serve as precedents, helping to shape international norms, and influencing the political will of other states and political actors.

<sup>44</sup> Federal Constitutional Court, Order of 24 March 2021.

### International human rights perspectives

One possible approach would be to shift the framework once again. Up to now, we have focused exclusively on national legal perspectives from Germany, while leaving out supranational legal considerations. However, climate change is a global issue, and climate protection cannot be effectively addressed within national borders alone. It therefore seems reasonable to broaden the legal perspective and integrate international human rights considerations into the analysis.

The *Universal Declaration of Human Rights* (UDHR) serves as the cornerstone document for human rights, outlining the “equal and inalienable rights” that “all members of the human family” are entitled to by virtue of birth. These rights, as articulated in the preamble, are regarded as “the foundation of freedom, justice and peace in the world.”<sup>45</sup> Yet, a closer examination of the UDHR reveals that it contains no references to climate, climate change, or climate protection. This absence can be attributed to the historical context of its drafting – when the UDHR was adopted in 1948, these issues were not as prominent as they are today, to say the least. However, this absence should not be seen as an indication that climate protection or addressing the impacts of climate change are unrelated to human rights. On the contrary: the official website of the Office of the High Commissioner for Human Rights (OHCHR), the primary United Nations body for human rights, explicitly emphasizes:

“Climate change threatens the effective enjoyment of a range of human rights including those to life, water and sanitation, food, health, housing, self-determination, culture and development. States have a human rights obligation to prevent the foreseeable adverse effects of climate change and ensure that those affected by it, particularly those in vulnerable situations, have access to effective remedies and means of adaptation to enjoy lives of human dignity.”<sup>46</sup>

So, even if climate change is not explicitly mentioned in the UDHR, the OHCHR highlights its profound implications for a wide range of human rights. Climate change poses threats to, or even directly violates, rights explicitly guaranteed to every individual under the UDHR. These include the rights to life and self-determination (Art. 3), access to water, sanitation, food, health, and housing (Art. 25), as well as development and culture (Art. 27). Moreover, additional fundamental rights not mentioned above are also jeopardized or negatively impacted by climate change and its effects, such as the right to freedom of movement and residence (Art. 13), social security (Art. 22), and education (Art. 26).<sup>47</sup>

If it is evident, as emphasized by the OHCHR and numerous other institutions and scholars,<sup>48</sup> that climate change not only threatens but also actively restricts human rights, this strongly suggests that combating climate change could – or indeed should – be understood as a fight against human rights violations; or, to put it in more positive terms,

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<sup>45</sup> United Nations. Universal Declaration of Human Rights, online at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (accessed 2025-01-25).

<sup>46</sup> United Nations. Human Rights. Office of the High Commander. OHCHR and climate change, online at <https://www.ohchr.org/en/climate-change> (accessed 2025-01-23).

<sup>47</sup> United Nations. Universal Declaration of Human Rights.

<sup>48</sup> Sumudu Atapattu. *Human Rights Approaches to Climate Change. Challenges and Opportunities*. London: Routledge. 2015; Bridget Lewis. *Environmental Human Rights and Climate Change. Current Status and Future Prospects*. Singapore: Springer Nature, 2018; Margaretha Wewerinke-Singh. *State Responsibility, Climate Change and Human Rights under International Law*. Oxford, London: Hart, 2019.

as a fight for human rights. This interpretation is also advocated by Amnesty International, one of the largest human rights organizations globally, they assert on their official German website:

"Those who want to protect the human rights of all people worldwide must work to stop climate change. Global warming is already having devastating impacts on human rights. Millions of people are losing their homes due to floods, going hungry because droughts are destroying their crops, lacking access to clean drinking water, or being injured or killed by hurricanes."<sup>49</sup>

As this statement highlights, Amnesty International not only frames the fight against climate change as a substantive commitment to human rights. They also make it clear that this fight cannot be limited to addressing human rights violations already caused by climate change and providing compensation for them – it must actively include efforts to prevent future violations. By doing so, Amnesty International highlights the proactive and comprehensive nature of this interpretation.

What makes this interpretation of the relationship between human rights and climate change particularly significant is that it is not merely a theoretical argument confined to the domain of ethicists and human rights scholars. Instead, there are some legal precedents that embody a similar rationale. A landmark example is the April 2024 ruling by the European Court of Human Rights (ECHR) in favor of "Verein KlimaSeniorinnen Schweiz" (*Climate Seniors Switzerland*).<sup>50</sup> This group filed a lawsuit against Switzerland, alleging that the government's insufficient action against climate change and failure to adequately address its consequences constituted a violation of their human rights, especially the protection of their lives (Art. 2) and the respect for private and family life and the home (Art. 8).<sup>51</sup> Their claim was grounded in the argument that older women, in particular, are disproportionately vulnerable to the effects of climate change, especially extreme heat. In its decision, the ECHR determined that the plaintiffs' rights – as guaranteed by the European Convention on Human Rights (ECHR) and the UDHR – would indeed be violated if European states, in this specific case: Switzerland, failed to intensify efforts to combat climate change. Despite facing significant opposition afterward,<sup>52</sup> this decision achieved two major outcomes: first, it legally established the connection between human rights and climate protection; and second, it granted

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<sup>49</sup> Amnesty International. Klimakrise und Menschenrechte, online at <https://www.amnesty.de/informieren/themen/klimakrise-und-menschenrechte> (accessed 2025-01-23), translated by MT.

<sup>50</sup> European Court of Human Rights. Legal Summary. Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC] - 53600/20. Judgment 9.4.2024 [GC] (2024-04-09), online at: <https://hudoc.echr.coe.int/eng/?i=002-14304> (accessed 2025-01-27).

<sup>51</sup> European Court of Human Rights. Information Note on the Court's case-law 261. Verein KlimaSeniorinnen Schweiz and Others v. Switzerland (relinquishment) - 53600/20 (2022-04), online at: <https://hudoc.echr.coe.int/eng/?i=002-13649> (accessed 2025-01-23).

<sup>52</sup> The ECHR's ruling has faced repeated criticism from various quarters, with opponents arguing that it is undemocratic, interferes with national sovereignty, and unjustifiably expands the scope of the European Convention on Human Rights. Charlotte Blattner provides a thorough account of these criticisms, along with a critical analysis, in which she defends both the Court's approach and its decision. Her commentary can be found on the largest German-language blog dedicated to constitutional law topics. See Charlotte Blattner. 'Warum das KlimaSeniorinnen-Urteil nicht undemokratisch ist. Anmerkungen zu einer Schweizer Debatte'. Verfassungsblog (2024-06-26), online at <https://verfassungsblog.de/egmr-klimaseniorinnen-gewaltenteilung/> (accessed 2025-01-23).

organizations the right to sue on behalf of those affected by climate change, such as the climate seniors representing older women in Switzerland.<sup>53</sup>

What insights can we draw from this argument, along with the supporting ruling that recognizes climate protection as a human rights issue, regarding the debate over climate protests in Germany? Is invoking human rights the “silver bullet” that resolves the conflict in favor of the protesters, who, by actively advocating for climate protection, are defending human rights? The answer is not so straightforward. Even though “democracy” is explicitly mentioned only once in the UDHR—in Article 29, which outlines the individual's duties to the community and states that individual rights may only be exercised within the limitations set by law and the rights and freedoms of others—there is a similarly close connection between democracy and human rights as there is between climate protection and human rights. As the OHCHR states on its website: “Democracy, development, rule of law and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.” This is further explained with the assertion that: “Democracy as a form of government is a universal benchmark for human rights protection; it provides an environment for the protection and effective realization of human rights.”<sup>54</sup> This positive rationale—that democracy forms the foundation for human rights and creates the conditions in which they can thrive—can be further reinforced by a negative perspective. One could, for instance, point out that authoritarian or totalitarian states are often characterized by significant human rights violations. Democracy, therefore, stands not only as the strongest bulwark against such regimes but also as a safeguard against the human rights abuses that frequently accompany them.<sup>55</sup>

If the defense of democracy can also be interpreted as a *fight against human rights violations*—and therefore as a *fight for human rights*—then we find ourselves once again in

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<sup>53</sup> It is essential to highlight that there are strict limitations regarding the admissibility of such representative lawsuits. This is demonstrated by two other cases brought before the ECHR, both of which were dismissed. The first case involved six Portuguese youths who sued more than 30 European states, alleging that these states, through inaction or insufficient climate protection measures, were accepting human rights threats or violations. The second case was filed by a French citizen who made a similar complaint against the French state. The ECHR dismissed the first case, arguing that it was too far-reaching and that states cannot be held accountable for actions occurring outside their borders. The second case was rejected on the grounds that the plaintiff lacked the so-called “victim status”—meaning he was not significantly affected by the consequences of climate change in a way that infringed upon his human rights. See European Court of Human Rights. Case of Duarte Agostinho and Others against Portugal and 32 Others (Application no. 39371/20). Decision (2024-04-09), online at <https://hudoc.echr.coe.int/eng?i=001-233261> (accessed 2025-01-27); Tagesschau, Erste Klimaklage in Straßburg erfolgreich (2024-04-09), online at <https://www.tagesschau.de/ausland/europa/klimaklagen-schweiz-100.html> (accessed 2025-01-23).

<sup>54</sup> United Nations. Human Rights. Office of the High Commissioner. About Democracy and Human Rights, online at <https://www.ohchr.org/en/about-democracy-and-human-rights> (accessed 2025-01-23).

<sup>55</sup> Hannah Arendt. *The Origins of Totalitarianism*. San Diego: Harcourt Brace Jovanovich, 1979 (1951); John Dewey. *The Public and its Problems. An Essay in Political Inquiry*, edited by Melvin L. Rogers. Athens: Swallow Press, 2016 (1929); Richard Rorty. *Pragmatism as Anti-Authoritarianism*, edited by Eduardo Mendieta. Cambridge: The Belknap Press, 2021. Especially considering this close connection between democracy and human rights, as well as totalitarianism and human rights violations, the current global trend of “democratic backsliding” (Prainsack) and the rise of post-democratic, populist, or outright totalitarian regimes must be viewed with even greater concern. See Barbara Prainsack, *Welche Sicherheit? Vertrauen zur Zeit des Democratic Backsliding*, in *Grenzen von Vermittlung—Vermittlung von Grenzen. Ethische, theologische, gesellschaftswissenschaftliche Erkundungen*, edited by Peter Dabrock, Max Tretter, Michael Hahn and Tabea Ott. Stuttgart: W. Kohlhammer, 2025; Calhoun et al. *Degenerations of Democracy*.

a situation similar to where we began. From a human rights perspective, if both climate protection efforts and efforts to uphold democracy are fundamentally about safeguarding human rights, then both climate activists and those defending democracy can legitimately claim to be fighting for human rights. Therefore, while shifting the framework another time has once again uncovered new dimensions of this conflict, it has not provided a solution to the original question. The issue of who is “right” remains unresolved.

### Political theory perspectives

In his reflections in *Philosophy and the Mirror of Nature*<sup>56</sup> as well as in *Contingency, Irony, and Solidarity*,<sup>57</sup> Richard Rorty develops the idea that when a question appears unanswerable, it is most often because the question itself has been framed incorrectly. Consequently, the solution is not necessarily to persist in answering it, but to reconsider its phrasing and framing—or even abandon it altogether. Of course, we cannot, nor do we wish to, abandon the question of whether climate activists or the supposed defenders of democracy are “right” in their priorities. What we *can* do, however, is critically examine the existing framework and rephrase it in a way that allows for deeper insight. In this case, that could mean shifting the framework once again—but in a more fundamental way—by questioning whether the real issue lies not in climate protection or democracy themselves, but in the oppositional framing that pits the two against each other.

One could even argue that this is exactly the approach taken by Last Generation themselves—as well as many advocates of climate protests—when they frame their actions as a form of civil disobedience. Civil disobedience is widely recognized by political theorists as a fundamentally democratic expression—and is even explicitly acknowledged as such in some constitutions. If Last Generation’s protests can be understood as civil disobedience, the supposed conflict between climate protection and democracy therefore dissolves. Even more so, under a civil-disobedience-framing, their activism is not merely not a threat to democracy—it is an expression of democracy itself: a struggle not just for climate action, but for democracy as well. This shifts the central question that needs to be answered from “Are climate protesters or the supposed defenders of democracy in the right?” to “Do Last Generation’s protests constitute a form of civil disobedience?”

However, whether Last Generation’s actions truly qualify as civil disobedience ultimately depends on how the concept is defined. One of the most influential and widely recognized theories of civil disobedience comes from John Rawls. In his seminal work *A Theory of Justice* he defines civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government. By acting in this way one addresses the sense of justice of the majority of the community and declares that in one’s considered opinion the principles of social cooperation among free and equal men are not being respected. A preliminary gloss on this definition is that it does not require that the civilly disobedient act breach the same law that is being protested”<sup>58</sup> While Rawls sees the “natural duty” in upholding the institutions of a nearly just society, which can include following unjust laws, as long as they stabilize a nearly just society,<sup>59</sup> Rawls emphasizes that civil disobedience

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<sup>56</sup> Richard Rorty. *Philosophy and the Mirror of Nature*, Oxford: Blackwell, 1996 (1979).

<sup>57</sup> Richard Rorty. *Contingency, Irony, and Solidarity*, Cambridge: Cambridge University Press, 1993 (1989).

<sup>58</sup> John Rawls. *A Theory of Justice*. Cambridge: Harvard University Press, 1971, p. 364.

<sup>59</sup> *Ibid*, pp. 334, 354.

can be justified in a nearly just democratic society when it is 1) used as a last resort<sup>60</sup> to 2) correct serious injustices.<sup>61</sup> He argues that such acts should be carefully calibrated so that they 3) respect and thus uphold the framework of the legal system,<sup>62</sup> 4) aiming to bring about change through moral persuasion rather than coercion.<sup>63</sup>

From this perspective, the question of whether Last Generation's protests constitute civil disobedience remains somewhat controversial—particularly in terms of respecting the framework of the legal system and the aspect of moral persuasion. While protesters and supporters argue that their actions should be understood as a last resort, carefully measured to remain proportional and as nonviolent as possible, critics counter that their actions can hardly be classified as a last resort, as numerous alternative avenues existed for advancing their cause within the democratic process. Similarly, while advocates maintain that Last Generation's protests foster public discourse and promote their goals through moral persuasion, critics argue that their actions are more coercive than persuasive—especially when they cause major disruptions to public life and potentially endanger individuals. As evidence, they point to widespread public opposition to Last Generation's protests, suggesting that their communication strategy has failed to garner broad support.<sup>64</sup> As a result, John Rawls' theory of civil disobedience does not provide a definitive answer as to whether Last Generation's actions should be considered civil disobedience—leaving the question of their compatibility with democracy equally unresolved.

There are, however, alternative conceptions of civil disobedience, e.g., “radical democratic approaches,”<sup>65</sup> that offer another foundation for addressing this question as, for instance, Robin Celikates' understanding of civil disobedience.<sup>66</sup> Methodologically, Celikates does not adopt an ideal-theoretical approach, like Rawls, which is inherently

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<sup>60</sup> Ibid, p.373.

<sup>61</sup> Ibid, pp.372, 375.

<sup>62</sup> Ibid., pp. 334, 354

<sup>63</sup> Ibid, pp. 352, 366, 376. For a more in-depth contextualization of Rawls's concept within broader debates on civil disobedience, see: Max Tretter. *Hip-Hop bei Black Lives Matter-Protesten. Eine theologisch-ethische Auseinandersetzung mit ästhetischen Artikulationsformen in der Öffentlichkeit*. Tübingen: Mohr Siebeck, 2025, pp. 17–21.

<sup>64</sup> Rucht, *Letzte Generation*, 2023.

<sup>65</sup> Following, e.g., Henning Hahn, Lena Herbers, and Hans-Richard Reuter, other approaches including Hannah Arendt's conception of civil disobedience in *Crisis of the Republic* and Étienne Balibar's interpretation in *Equaliberty* can be considered radical democratic approaches. Arendt's conception is open to changing democratic institutions and policies if necessary, even when these are supported by a majority (Arendt 1973, pp. 56, 75ff.). Balibar builds on Arendt's work and explicitly refers to her when developing his own conception of civil disobedience (Balibar 2013, pp. 165–186). With regard to civil disobedience, Balibar concludes that “Democratic citizenship is therefore conflictual or it does not exist” (Balibar 2013, p.284). See: Henning Hahn. ‘Kampf um politische Handlungsfähigkeit. Grundriss einer normativen Theorie globalen zivilen Ungehorsams’. *Zeitschrift für Politische Theorie* 10:1 (2019), pp. 49–65; Lena Herbers. ‘Ziviler Ungehorsam als Demokratie’. *Verfassungsblog* (2023-07-28), online at: <https://verfassungsblog.de/ziviler-ungehorsam-als-demokratie/> (accessed 2025-04-23); Hans-Richard Reuter. ‘Klimaprotest als ziviler Ungehorsam. Liberal oder radikal?’ *Zeitschrift für evangelische Ethik* 67:3 (2023), pp. 165–170; Hannah Arendt. *Crisis of the Republic*. San Diego: Harcourt, Brace & Co, 1973; Étienne Balibar. *Equaliberty. Political Essays*, translated by James Ingram. Durham: Duke University Press, 2013.

<sup>66</sup> Robin Celikates. ‘Civil Disobedience as a Practice of Civic Freedom’, in *On Global Citizenship*. James Tully in Dialogue, edited by James Tully. London: Bloomsbury, 2014, pp. 207–228; Robin Celikates. ‘Rethinking Civil Disobedience as a Practice of Contestation—Beyond the Liberal Paradigm’. *Constellations* 23:1 (2016), pp. 37–45, p. 41; Robin Celikates. ‘Democratizing Civil Disobedience’. *Philosophy & Social Criticism* 42:10 (2016), pp. 982–994.

unable to capture the complexities of non-ideal political situations. Instead, he begins by observing political practice,<sup>67</sup> a perspective that broadens the scope for recognizing the actions of *Last Generation* as forms of civil disobedience. Beyond this methodological consideration, Celikates also raises substantive critiques of Rawls' definition. In this context, the issue of nonviolence is particularly significant. Rawls emphasizes that civil disobedience *must* be nonviolent. However, while *Last Generation* claims to act nonviolently, the lack of a clear definition of "violence" in Rawls' framework leaves it ambiguous whether the actions of *Last Generation* can truly be classified as nonviolent. As mentioned above, court rulings have charged activists of *Last Generation* with coercion precisely on these grounds.

In this regard, Celikates highlights the problem inherent in the demand for nonviolence without a clear definition of what constitutes violence.<sup>68</sup> For example, although road blockades are a well-established method of civil disobedience, the German Federal Court of Justice (*Bundesgerichtshof*) ruled in its famous 1969 "second-row case" law that such protests could be classified as coercive – and are therefore violent. According to this ruling, blocking a single car does not constitute coercion, but if a second car is physically prevented from proceeding, the action is deemed coercive. Such legal rulings prompt Celikates to critique the unclear and inconsistent application of nonviolence as an insufficient standard for defining civil disobedience.<sup>69</sup>

Celikates is also critical of Rawls' assertion that civil disobedience must appeal to the sense of justice of the majority. Historically, civil disobedience has not always appealed to the majority's sense of justice, nor is this always its primary goal. At times, the aim of civil disobedience is to increase the political and economic costs of inaction, thereby pressuring decision-makers to implement the desired measures. In the case of *Last Generation*, the focus is also on achieving specific policy measures. While they aim to persuade the public, this effort is directly tied to their concrete demands. Once again, Celikates broadens the perspective, enabling a more inclusive understanding of the actions of *Last Generation* as forms of civil disobedience.

Beyond the deficits in the definition of civil disobedience that Celikates identifies, it is essential to address the specific role that civil resistance is attributed within a democratic framework. In Rawls's ideal-theoretical view, civil disobedience stabilizes the institutions of the nearly just society by acting as a warning signal to them when equal liberty is threatened.<sup>70</sup> The goal, then, is essentially to maintain the status quo – since democracies are, at least the ones Rawls is having in mind, "nearly just" and thus its institutions need to be upheld.<sup>71</sup> Based on practical experience, however, Celikates analyzes that activists often experience their democracy as deficient and see themselves as limited in their participation in it, i.e., not as nearly just.<sup>72</sup> This can be due, for example, to rigid or slow institutions, the influence of lobbying, or a restriction on participation in democracy due to lack of citizenship. Furthermore, although there are some progressive proposals on how to achieve a political voice for the environment,<sup>73</sup> the environment is

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<sup>67</sup> Celikates, *Civil Disobedience*, p. 215.

<sup>68</sup> *Ibid.*, p. 213-214.

<sup>69</sup> Celikates, *Rethinking Civil Disobedience*, pp. 41-42.

<sup>70</sup> Rawls, *Theory of Justice*, pp. 372-374.

<sup>71</sup> *Ibid.*, p.82.

<sup>72</sup> Celikates, *Democratizing Civil Disobedience*, pp. 989-991.

<sup>73</sup> Bruno Latour. *Politics of Nature. How to Bring the Sciences into Democracy*. Cambridge: Harvard University Press, 2004; Jane Bennett. *Vibrant Matter. A Political Ecology of Things*. Durham: Duke

systematically excluded from political participation due to the prevailing political system. *Last Generation's* protest could be understood as an attempt to compensate for this deficit. According to Celikates, it is where civil disobedience intervenes as a collective, civil and transformative means of democratization. Civil disobedience does not have to maintain the status quo but can have a transformative effect on the deficits of democracy.<sup>74</sup> In this view, civil disobedience is also seen as an essential component of a functioning democracy.

From Celikates' radically democratic perspective, civil disobedience does not need to appeal to the majority's sense of justice, nor should it be constrained by the ambiguous demand for nonviolence of Rawls liberal approach. Within this framework, the actions of *Last Generation* clearly qualify as civil disobedience. The commonly perceived dichotomy between climate protest and democracy as debated in public discourse and unresolvable when weighed in ethical goods or rights, dissolves when viewed through Celikates' political theory. Rather than opposing democracy, *Last Generation* actively enacts it. Their acts of civil disobedience amplify voices where democratic institutions, operating within societies that fall short of Rawls' notion of a *nearly just society*, structurally have difficulties to uphold their own democratic ideals. In this light, their protest is not merely about climate justice but also a struggle for democracy itself.

## Conclusion

Starting from the observation that *Last Generation's* climate protests have not only attracted enormous attention but also sparked debates on multiple levels – and that in these debates, the group's active commitment to climate protection has often been labeled as a “threat to democracy”, framing their environmental concerns in opposition to the democracy-preserving concerns of their critics – this paper has explored how the supposed tension between *Last Generation's* protest, its goals, and democracy can be negotiated. Through an examination of ethical, legal, and human rights frameworks, it became clear that this tension cannot be resolved by simply declaring one side more urgent or more fundamental than the other. Instead, following Richard Rorty's insights, this paper proposed that the best way to resolve the tension is to fundamentally *change the framing itself*. Rather than asking whether “democracy or climate protection” ought to be prioritized, we should emphasize their interdependence and synergies – shifting toward a “democracy and climate protection”-framework. In the specific case of *Last Generation's* protests, this connection has been established through the concept of civil disobedience. Following Robin Celikates' radical democratic approach, civil disobedience is not merely a tool for advancing protest goals but also a mechanism for strengthening the foundations of democracy itself. For *Last Generation*, this means that by engaging in civil disobedience to fight for climate protection, they are simultaneously fighting for democracy – and, in doing so, inherently defending fundamental legal and human rights.

Reframing *Last Generation's* protests by challenging the “climate protection or democracy” dichotomy offers a fresh perspective – one that allows us to recognize their actions not only as a fight for climate protection but also as a way of strengthening democracy. More broadly, these conclusions shed light on the relationship between protest and democracy in general. Many protests – not only those of *Last Generation* – are often

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University Press, 2010; Bruno Latour. *Facing Gaia. Eight Lectures on the New Climatic Regime*. Cambridge: Polity, 2017.

<sup>74</sup> Celikates, *Civil Disobedience*, pp. 223-224.



framed in opposition to democracy and dismissed as threats to democratic order. While there are indeed cases where protests may take on anti-democratic or democracy-destabilizing tendencies, the “protest *or* democracy” framing frequently seems – especially in light of the arguments outlined above – less like a genuine dilemma and more like a lingering remnant of *divide-et-impera*-thinking, serving to contain the transformative potential of protest. To be clear, we do not want to suggest that those critics who adopt such framings do so with ill intent – quite the opposite. We are convinced that they act out of a sincere and justified concern for democracy, which is more than warranted in the present moment. Rather than framing it as an accusation, we aim to present this insight as a guiding principle for the new protest culture described by Sydiq: *Stay vigilant* against the trap of accepting oppositional framings too readily – wasting energy on proving your democratic legitimacy or even opposing those who share your core concerns. Instead, inspired by Chantal Mouffe and Ernesto Laclau,<sup>75</sup> focus on building chains of equivalence, forging alliances, and harnessing synergies – while also recognizing the true adversaries: those people, parties, and companies who oppose both democracy and the transformative potential of protests.

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