

Disobedience justified in a democracy assignment



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What interested me was that they were punished at all- shouldn't they be allowed to express their thoughts in a necromancy without fear of consequences? They were obviously punished for the illegal climbing and trespassing of Mount Rushmore but this raised bigger questions; why break the law? Would they have been able to publicize this message with equal magnitude without breaking the law? Did the court take into account their motives for their disobedience when considering the punishment?

My research into these questions then led into much broader topics- the characteristics of a democracy, the relationship between the government and citizen in such a system and how dissent fit into that relationship. My initial question was, ' Should protests be allowed in a democracy? ' but found that the word ' protest' was too broad and that was where I decided to narrow it down to civil disobedience. Part of this paper differentiates civil disobedience from other forms of dissent. This paper also analyzes the social contract theory and the various features which justify civil disobedience in a democracy.

While there are many aspects and angles towards civil disobedience, I reached a rather blunt judgment in conclusion, that civil disobedience, while disrupting social order, can nearly always be justified in a democracy, specially with the evidence of positive social change that has resulted from past disobedience. Introduction The main issue concerning civil disobedience is its illegality- whether disobedient should go as far as to breaking the law to garner publicity and attention to their cause. Justifying breaking the law is never easy; circumstances must be examined and carefully analyzed.

What this paper attempts to do is to form a criteria in which civil disobedience can be justified- when it is used as a last resort, when the government is not apathetic to your cause, when your motivations are due to a moral obligation etc. Sat disobedient such as Martin Luther King Jr. , best known for his Inspiration of civil disobedience to end racial segregation and discrimination, and Gandhi, who utilized mass civil disobedience to fight for Indian's independence, are great examples of when civil disobedience can be justified, as well as showing the great positive social changes possible from civil disobedience.

While a definite universal checklist cannot be formed (as all democracies are different with differing circumstances), the main validation of any form of civil disobedience is justice- the disobedient must be completely sincere in his/her motivation and indefinitely believe that what s/he is doing is moving society closer towards a positive change. What is Civil Disobedience? " The refusal to obey the demands or commands Of a government or occupying power, without resorting to violence or active measures of opposition; its usual purpose is to force concessions from the government or occupying power. Is the official definition from the Britannica Encyclopedia. The term first appeared in Henry David Thoreau essay (written in 1848) to illustrate his refusal to pay a tax to prosecute a war in Mexico. It is a term which suffers from ambiguity- which can be seen by how many protesters label their acts as civil disobedience wrongly. There are various characteristics of civil disobedience which allow us to classify and differentiate it from other forms of dissent.

These key features also support its status as a justifiable mode of action in breaching the law. Characteristics Conscientiousness IS one of the main features of civil disobedience-it shows the sincerity and belief disobedient have in their actions. They feel that a law is unjust and requires reassessment or removal and through their belief disobey to draw attention to that particular law. The problem with this characteristic is that many other offences are fuelled by conscientiousness as well- conscientious objection, revolutionary action etc. ND thus civil disobedience may overlap with other forms of dissent, although the other features of civil disobedience help to construct a distinction. Another key feature of civil disobedience is publicity. Breaking the law in an attempt to bring about change should never be secretive or covert as said by Rails- an American philosopher who wrote a chapter in a book, ; The Justification of Civil Disobedience. The book, written by Hugo A. Bedaub, adds that besides civil disobedience never being covert, the disobedient should give prior notice to the government and the public of what he or she intends to do.

However, doing so may compromise the actions of the disobedient- such as informing the authorities of an attempt to release test animals at a laboratory. Doing so may allow the authorities time to ensure no such action Occurs and stop any form Of disobedience from happening. Giving no prior notice will still allow the act to be classified as civil disobedience, as long as the disobedient accepts responsibility/punishment for the act soon after the subsidence has taken place. This raises an interesting concept that the law the disobedient breaks should never be the law they are fighting against.

Accepting punishment for what is, in the disobedient eyes, an unjust law would be much harder to accept. One characteristic of civil disobedience which has been debated heavily is non-violence. While some theorists go as far as saying that civil disobedience is, by definition, non-violent (such as the definition from the Britannica Encyclopedia), others argue that non-violence would diminish the effectiveness of disobedience. Non-violence could also be more harmful than lenience itself- such as if an ambulance crew decided to go on strike.

Violence would draw much public attention to the motives of the disobedient and would show his/her seriousness and enhance the effectiveness of the disobedience. The general consensus is, however, that non-violence is preferable to violence. Violence may detract the attention of the public from the main issue that the disobedient is attempting to address. Non-violence ensures that authorities do not treat the disobedient with CEQ ally violent countermeasures as well as the obvious avoidance of any direct harm done resulting from the violence.

An underlying concept within these 3 attributes of civil disobedience is a certain fidelity to the current legal system-non-violence, accepting responsibility and publicity. However, as the term civil disobedience does suffer from some vagueness, not all of the features discussed above are definite- some state that civil disobedience can be violent and/or partially covert. The problem with such claims is that it weakens the borders between civil disobedience and other forms of dissent- if the disobedience is violent/covert it may signal unhappiness with the whole legal system, symptomatic of revolutionary action.

If there are such weak boundaries, the overall justifiability of civil disobedience would be lessened and may suggest to opponents of civil disobedience that all illegal protests should be classified under one term, whether that be civil disobedience or not. Distinction Civil disobedience is not a crime in itself- if a disobedient is punished by the law, it is for the offence committed (such as trespassing in terms of the Met. Rushmore case). A judge may recognize this and hand out a lessened/more 'reasonable' sentence than if another person breached the same law.

This difference in punishment shows that there is a distinct difference between civil disobedience and ordinary offences. The main difference lies in the disobedient aim to make his/her breach of the law public and known (whereas an ordinary offender would not want it to be known)-this shows a difference in motivation for breaching the law. Another difference is the disobedient willingness to accept any punishment given to them, which also separates them from ordinary offenders.

Civil disobedience's characteristics help to distinguish it from other forms of dissent although they inevitably overlap. The legality of the form of protest is an obvious distinction when comparing civil disobedience and legal protest. The main reason for disobedient choosing the latter over the former is the publicity attained; it is much harder to garner attention through conventional and legal means compared to the news value of illegal actions.

Conscientious objection is a more difficult form of dissent to differentiate from civil disobedience.

The former exhibits conscientiousness- a certain moral conviction to violate/not follow that particular law, similar to civil disobedience. While conscientious objection does not primarily aim to communicate to the government the reasons for the violation of that law or hat they have done so at all, they unavoidably do so and this communicative element is similar to that of civil disobedience (In which they aim to inform the government of their displeasure of a particular law). Conscientious objection, however, may be legal (although not very often), compared to civil disobedience which is never legal.

Revolutionary action exhibits conscientiousness and publicity but the main difference between it and civil disobedience is that while the latter aims to make changes to a particular law, the former aims to change the legal system completely. Revolutionary action aims to persuade society that a change in game is needed and that the government that should no longer be the government. While Sandhog's 'Quit India' campaign involved mass civil disobedience, it was driven by revolutionary aims, one of the numerous examples of how the terms overlap.

It is difficult to classify a form of dissent solely civil disobedience because of the unavoidable overlaps of motives and characteristics. However, the defining quality of civil disobedience is its aim- to bring about a revision/removal of a particular law (not the entire legal system) by breaching the law. Democracy The most simplistic definition of a democracy is 'rule by the people'. The robber with this definition is that it can be mistranslated or manipulated due to its elasticity. One particular example is how the

Democratic people's Republic of Korea (more commonly referred to as North Korea) is not even close to being a democracy.

The flexibility of the term means that nearly every government has attempted to classify itself as a 'democracy' as it is associated with many positive ideas- particularly freedom. As a result, the arguments below may not apply all democracies, although there will be relevance- to a degree.

Legal channels for change The most obvious debate against civil disobedience in a democracy is that here are legal channels for change and disobedient should not have to resort to breaching the law. Most democracies allow appeals to a court against laws which, if shown to be in conflict with the country charter Of rights, can be overturned.

The problem with this is the lengthy process involved- Thoreau argues he was born to live, not to lobby. Also, taking the matter to court does not always guarantee justice; the courts are often controlled by the same political elite as the government. Being run by the government (essentially) also means any form of revolutionary aims cannot be brought to the court- such as the 'Quit India' campaign. Bringing a case for independence of India to an essentially British run country would be futile. Martin Luther King Jr. Dates that if the legal channels of change are open in theory but closed in practice, then the system is not democratic in the way needed for which civil disobedience is unnecessary. Another question posed is how a civilian would be able to lobby his/her case in a court. For that to occur the civilian would first need to be arrested (for breaking the law like civil disobedience) so s/he could bring the case to a court. As a last resort Civil disobedience should only be used as a last resort- a popular argument against civil disobedience.

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The problem with this argument is that the legal channels for change can never be exhausted- a person opposed to a law could always write another letter to the state or they could always wait for the next election. As a result, it is difficult to classify whether the disobedient current situation is supportive of 'last resort' action. Rails, however, suggests that if past actions have shown the majority to be immovable then any further attempts through legal means can be considered unproductive and that civil disobedience could be classified as being a last resort.

Follow the leaders you have chosen Another argument against civil disobedience is how the government is chosen by the people; therefore they are obliged to follow the leaders they have chosen. From a cynical point of view it would appear that the government, once elected, would be free to act independently of its electors and there would be no guarantee that it would do as promised now being in power. Even if said argument was untrue and the government did act on its promises, circumstances can change and although the people want immediate action they would have to wait a few years for the next election before those issues could be addressed.

As Karl Marx said (although from a rather misanthropic outlook), 'The oppressed are allowed once every few years to decide which particular representatives of the oppressing class are to represent and repress them'.

The Social Contract Theory The social contract theory examines the relationship between the government and the citizen. There are numerous variations of the theory by different philosophers such as John Locke and Jean-Jacques Rousseau. These different theories lead to opposing viewpoints

on the allowance of the breaking of laws through civil disobedience in a democracy.

Rousseau version of the social contract theory is based on the ruling through majority. Laws are made according to the 'general will' and not 'personal will'. Rousseau states that a person could be an egoist and decide that personal interest should override the collective interest. That person must put aside his 'personal will' and obey the 'general will'. If a person decides to forsake the 'general will' and pursue his/her 'personal will' by breaking the law he is no longer considered to be part of the democracy. These arguments clearly state that civil disobedience does not exist in a democracy- breaking the law simply removes you from it.

A term found in John Locke's version of the social contract theory is 'tacit consent'. By being a citizen and enjoying the benefits-such as infrastructure, health care, police protection-one has given tacit consent to obey the laws set by the government. To refute said statement Thoreau and Gandhi state that those who object deeply to the injustices committed by the state should relinquish the benefits of citizenship by living a life of simplicity and relative poverty, removing the tacit consent of obeying the law and thus allowing civil disobedience.

However, Locke's version of the theory does allow disobedience and even revolution if the state breaches its side of the contract by ruling unjustly. King also states that 'an unjust law is not even a law' therefore consent to obey does not extend to that law. Another point made by blacks, women and

Native Americans is that since they are not fully members of American society then they are not fully bound by its laws.

It is difficult to say which version of the theory is most accurate- there are numerous variations besides the two mentioned above with differing viewpoints on whether one should ever be allowed to break the law in a Anarchy Some state that civil disobedience disrupts social order and therefore it should not be used. This may be the case because if civil disobedience is justified for one group whose moral beliefs go against the law then it should be justified for all groups with similar motives-if everyone disobeys it would lead to anarchy.

John Locke believes that while anarchy may be viewed negatively, despotism is much worse. If the state is conscripting men to fight immoral wars against their wills, it shows potential to do acts with much larger social consequences in the future. Most people feel disobedience always leads to larger uniqueness than obedience but this is not always true-obedience to conscription would bring the state closer to despotism, a greater evil than anarchy. Disobedient do not necessarily encourage other potential disobedient to follow suit.

King made his disobedience hard to imitate; attempting negotiation before disobedience, non-retaliation to force from police etc. While these actions were used to promote other agendas, it also limited the number of disobedient able to justify their actions in the same way. Also, while civil disobedience makes the general public realize the injustice of a reticular law, only few will react with disobedience. A disobedient is not necessarily an

anarchist if s/he wants widespread imitation-s/he simply wants action to be taken by the state and disobedience would be more effective in stating their case if it was widespread.

It does not necessarily cause social unrest and may even promote social stability (if it was restricted to a small portion of the community) by moving it closer to 'justice'. Conclusion So to what extent is civil disobedience justified in a democracy? The conclusion drawn from my extensive research is that it is very much so justified. Even though legal measures exist for change, one must contemplate the length of the process involved and that the complaints are being made to the same people that they are against.

Civil disobedience is a necessary Step if the state is not apathetic to their cause and would open the eyes of the general public in order to pressure the state into change for the better. While there may be the risk of anarchy the greater evil of despotism looms. The consequences of obeying must be compared to the consequences of disobeying. Even though Rousseau version of the social contract theory mess breaking the law forfeit of citizenship, one could argue that those who breach the law in justified civil disobedience demonstrate civic virtue.