

## **A RIGHT TO PROTEST AND CIVIL DISOBEDIENCE**

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### **ABSTRACT**

Throughout history, there have been countless instances of people protesting against the government, in order to bring the required change. Staged sit-ins, blockades, hunger strikes, and marches are some of the tactics used to pressurize government and organizations to change a particular law, which these protestors find morally wrong. This paper highlights the relevance of Civil Disobedience, and presents exactly what it entails. The paper explains why acts of civil disobedience are justified, and how to deal with the unsolvable dilemma caused by the conflict between moral and civil law.

**KEYWORDS:** Thoreau; Civil disobedience; Moral authority; Philosophy

### **INTRODUCTION**

“Disobedience is the true foundation of liberty. The obedient must be slaves. - Henry David Thoreau”

The phrase ‘civil disobedience’ can be divided into two parts: ‘civil’ and ‘disobedience’. ‘Civil’ refers to something related to ordinary citizens and their concerns are being polite. ‘Disobedience’ is the refusal to obey rules or someone in authority; deliberately not doing what someone in power tells you to do. Together, Civil Disobedience is the refusal to obey a law out of a belief that the law is not morally wrong.

The phrase ‘passive and non-violent resistance’ is often used to define Civil Disobedience. It is the reluctance shown by the public towards the commands of the authority, to highlight their displeasure about any extreme injustices of the governing authority. The primary aim involved behind civil disobedience is to awaken the public towards any wrongdoing by the authority in power and give rise to a widespread reform against it. It is a deliberate refusal involving illegal acts on the part of Protestants to signal their dissatisfaction, with a motive of bringing about a change in the ruling power. It is mostly in a form of opposition, where people don’t resort to violent means. The tactic behind opposing any particular rule is, to motivate some aggressive response from the authority, which would further help in driving the masses against the authorities and widen public concern. However, a civil disobedience carried out involves two methods: first, where the leaders openly disobey the government to bring out the general public concern and resort to protests to make their arguments heard. Second, the Protestants choose to accuse authorities of their wrong doings, provoke them to take a measure, which either supports their cause, or further regulate sympathy of the citizens for their movement.

### **HISTORY AND ORIGIN**

The term ‘Civil Disobedience’ was first coined by Henry David Thoreau, in 1848. In his essay, when he refused to pay the state poll tax to the American government that would fund a war in Mexico and enforce the Fugitive Slave Law.

Though, this term originated in 1848, the act of disobeying laws as a means of protest is far older. Some instances can be found in Socrates work, in the arguments of St. Thomas Aquinas of the middle ages, in the Indian concept of

Dharma (duty), and in some of the Classical Greek Tragedies. In the middle Ages, St. Thomas Aquinas (1225–1274) quoted a natural-law that, if an individual finds a law unjust and morally wrong, then those unjust laws does not bind the citizen in conscience. John Locke (1632–1704) shared a similar viewpoint. He believed that the government derived its authority from the people, that one of the purposes of the government was the protection of the natural rights of the people, and that the people had the right to alter the government should it fail to discharge its fundamental duties.

All these instances point to the idea that there is a law that transcends the law of state: and the individual has the obligation to disobey the law of the state in case the higher law and the law of the state come into conflict.

### **Thoreau**

Going deeper into the history, Henry David Thoreau was the first writer, who made the theory of civil disobedience famous and introduced this term to the world. He wrote an essay on “Civil Disobedience” to espouse the need to prioritize one's conscience over the dictates of laws. It criticizes American social institutions and policies, most prominently slavery and the Mexican-American War. He argues that government is based on the majority rule, most of the times majority of the people's views do not coincide with the morally right ones. A man should not always support the government and break the law if necessary.

### **Mahatma Gandhi**

“Only he who has mastered the art of obedience to law knows the art of disobedience to law.”

The conception of civil disobedience is one among many, which have been developed under the influence of Gandhi's thought and Gandhi's political practice in the second part of the 20th century. On March 12, 1930, Indian independence leader Mohandas Gandhi begins a defiant march to the sea in protest of the British monopoly on salt, his boldest act of civil disobedience yet against British rule in India. In regard to the conception of civil disobedience, the significance of Gandhi's contribution was in demonstration of the potential of this method of non-cooperation in opposition and resistance to a repressive colonial regime.

### **Martin Luther King**

The third major figure that made Civil Disobedience a distinguishing feature of Civil Rights, was Martin Luther King Jr. (1929-1968). According to him, a person who disobeys a law which he or she feels is unjust, and also willingly accepts the punishment of jail in order to arouse the citizens against the unjust laws, is actually showing the highest respect for the law. On December 1 1995, he started a movement by boycotting bus. In America, African Americans were mistreated. They continued to boycott the buses until they could sit wherever they wanted, and not be sent to the back seats when whites boarded. Inspired by Christianity and taking ideas from Gandhi, he lead may protest speeches, conferences and marches against unjust laws. He was assassinated on April 4 1968, when he was leading a peaceful march in support of striking sanitation workers. His efforts took large scale refuses to obey government laws.

## **REFUSAL TO FOLLOW RULES AND LAW WHICH ARE AGAINST MORAL LAW**

How much could a citizen challenge the governing authority? It also involves raising the question against some social norm which is widely followed amongst the majority. This leads to the next doubt of whether a citizen has any such right to claim a popular legal trend to be unfair? The most common basis behind refusing to follow some law is because it

conflicts morality. The actions involved target towards the lack in the ideology of the law, which is brought into light by posing as role models to influence the masses. The strategy undertaken while carrying out such a movement involves careful planning to bring up the immorality hidden in the law directly to public to regard it as unjust and pressurize the authorities to take required actions. The protests associated with this movement are considered illegal, and the leaders of such movements intentionally go through the punishments to set moral examples for the citizens, and promoting the fact that one should go beyond the legal boundaries to fulfill duties as a human being.

Here, we need to understand a fact that, no matter to what extent any law has been followed and for how long it has existed in the society, there is always a scope of flaw in it. This is what Protestants involved in a civil disobedience movement try to bring in light. Some time or the other, a law has to be reviewed and changed according to the demands of the current population, and for identifying such loopholes in any system; we require voices which rise above the boundaries set by the authorities for the sake of protecting morality.

If one is determined to raise a voice against the unjust part of government, he must have to take risks. There are high numbers of chances that punishment will not only affect himself, but also others peoples who are connected to him. But, putting one's conscience over the law of government is what everyone should do. The life where one is too much afraid to stand up for morality that he chooses to stick to the rules, or he is waiting for someone else to take the first action, see the results and then deciding to join or not to, is not worth living for. Following others orders will only convert the person to a machine, and the individual will be left with no respect for himself. Thus, refusal to follow commands of government is necessary, because till when everyone will not stand up for himself and go against the commands to value morality, it would be hard to have reforms in society towards a better form of government.

### **THE GOVERNMENT IS BEST WHICH GOVERNS LEAST**

The government, which has been chosen by the people, is sometimes exposed to an inexpedient behavior. In this situation, it is highly required on the citizen's part to question the acts of the authorities and rise against the system in order to make their disappointments heard and demand suitable reforms. The government must be open to abuse and be liable to mold itself according to the public's opinions in order to serve its citizens in the best possible manner. Any standing government is the outcome of a majority support, which by some means or the other is to be unfair towards some minority. Sometimes, a ruling government is under the threat of being misused as a tool by a few individuals to make decisions and implements rules, which in general may not win consent amongst the common public. It is desirable to inculcate the respect for human rights much more than the laws. The government which fails to act on basic moral grounds, in order to safeguard the legal norms, could not be labeled as a system with good governance. It is safe to assume that a government doesn't have any conscience and is always exposed to wrong doings behind the curtains of laws. But the one government, which rules on the basic pillars of human conscience, might not get trapped into the webs of rules conflicting morality.

Any man who comes across some unjust law thinks of being fine, if the same law exists till it is changed or deny its existence at once, on the basis of moral grounds. Mostly citizens go with the former action, the once which choose to transgress such injustice completely are then on a search for mass support to carry this movement to a large scale in order to make their voices heard. In such situation, why does a government tend to raise its barriers by considering this deliberate refusal of its authority as a crime, rather than lowering itself to the level of public, hear the wise notions of the protestants

and encourage them to provide solutions to end any unjust act?

### **PRIORITIZE ONE'S CONSCIENCE OVER THE DICTATES OF LAW**

Civil disobedience movements usually come into existence out of one's sincere conscience, not out of any self-interest. Any civil disobedience movement won't gather enough support if it is raising problems in the interest of a particular individual or group. The only way it can undermine the working of the government and create a deep and wide base, is by targeting the general conscience shared commonly by the public and then making them protest against the law. It has to call upon for social cooperation, where people gather together and decide to stand up for justice on a larger scale, which is in agreement with the morals and promote national good. Any government's set of laws must be laid not on the decision of what is virtually right or wrong, instead it must be the basic human conscience which is in question. And if such is the case, then there is nothing wrong with prioritizing human conscience, above the legal rules, as this is what forms the foundation of the whole system and defines the rules which govern the entire society.

A true democracy can only be realized by considering conscience of man. If at any point the dictates of law seem to overtake human conscience that is the right time to revisit the rules, and bring about the awareness amongst masses as well as the governance to review the laws, such that they are in the interest of the common public. Civil disobedience can't be just seen as a check on the government, instead it is a method in which citizens come together to address the shortcomings of their system, and bring about a positive change which in turn will help in the overall improvement of the government and its functioning.

### **IS CIVIL DISOBEDIENCE JUSTIFIED?**

People believe, including Thoreau and Gandhi, that civil disobedience is morally justified since there is no coercive violence involved and it is just a nonviolent show of protest. I also feel that we have a better society today, free from all serious evils because men in the past chose to follow their conscience and stood against the unjust laws and peacefully demanded the abolishment of such immoral laws. Nonetheless, not all acts of civil disobedience can be morally correct. Even, they are committed to stand against the unjust cause. Sometimes, a person mistakenly believes that a law or policy is unjust and immoral; in such cases an act of disobedience against it can't be morally justified. The only aspect of civil disobedience that distinguishes it from acts of overt terrorism or revolution is its non-violent nature. It is just a step below revolution. By using violence, civil disobedience turns into revolution and attacks the very existence of democracy and government. Even though a particular law may be immoral or unjust, the protester should have the responsibility to maintain and uphold the integrity of the civic order. Protestors are ready to accept the punishment and arrest, but that should not justify the illegal conduct. It shows that the law breakers are agreeing to pay the price to purchase the right to commit crimes.

The act of civil disobedience must be a last resort. Disobedience, civil or not, is still disobedience. It breeds disrespect and promotes general disobedience. If we try to decode the term "civil disobedience" and its hidden meanings, it is a non-violent act of breaking the law openly and publicly, without harming others, and accompanied by a willingness to accept punishment. The term "civil disobedience" is built on an oxymoron that reflects the positive and negative aspects of the concept. According to me, the term "civil disobedience" is "semantically inaccurate" because disobedience cannot be civil (acceptable in a civilized society) "In democratic societies any violation of the law is an uncivil act." Opponents of

civil disobedience claim that civil disobedient actually flaunt their lack of civility. In other words, civil disobedience is about disobeying the law, and disobeying the law simply cannot be deemed "civil" in a society that values order and stability

According to me, civil disobedience basically means the refusal of law by some particular section of civil society, whose interests may have not been watched over or taken care by the ruling or the law making section. So, as commented above that disobedience cannot be civil, I rather feel that suppressing interests of one group or their interests, not being taken care of is actually not civil at the first place. Moreover, democracy is on the very first place is a government by the people, of the people and for the people where there needs to be protection of interests of even a minority group. So, if there is a flaw in the law or with current situations if there are laws which appeared to be right earlier, but now they are not and are present as loopholes in the system and are not ensuring social justice, these must be opposed by disobedience of these laws. And, what is better than civil disobedience as the way, followed here is a nonviolent one, and according to the situations, flaws are being pointed out and further this is leading to a better

### **Form or Level of Civil Society**

Accepting punishment in return of breaking of law is nothing more than a ticket to right to commit crimes. This can induce a sense of carelessness towards the law of government, which can easily create havoc. As its base meaning, Civil Disobedience is still disobedience and hence it promotes the larger section of society to take laws lightly, which essentially leads to disobedience only.

### **RELEVANCE OF CIVIL DISOBEDIENCE TODAY**

Before we discuss the relevance of civil disobedience today, we must analyze what civil disobedience means to a common man, For me, an act of civil disobedience must meet three basic standards: righteous intention, nonviolent means of expression and the need for change. Throughout history, innumerable protests have been justified in the name of civil disobedience, such as refusal to pay taxes by Thoreau, Salt March by Gandhi, Boston Tea Party and many more. However, Contemporary Civil Disobedience is somewhat different. Its meaning and purpose is still intact; the art has not been lost. But, rather than focusing on specific civil liberties, modern day civil disobedience is more interested in broader societal concern like foreign policies and environmental protection. Another characteristic of Contemporary Civil disobedience is the gain of sympathy, if not approval of high government officials. Unlike early civil disobedience movements, when the authorities and government officials used to suppress the disobedience, the government has frequently reacted to the disobedience by legislating against the complained-of condition, or nullifying the disobeyed law. Despite the differences, Civil disobedience still remains today very much a vibrant part of liberal democracy.

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