Devin Wrigley

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Dr. Lasser

Civil Disobedience in the 1960’s

*Introduction*

The concept of civil disobedience has existed for centuries. By definition, civil disobedience in the modern-day refers to “the active refusal to obey certain laws, demands and commands of a government, or of an occupying international power, using no form of violence.”[[1]](#footnote--1) One of the primary elements of civil disobedience that separates it from all other criminal acts is the motive behind it. In his famous piece of writing, “On the Duty of Civil Disobedience,” Henry David Thoreau writes, “Unjust laws exist; shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once?”[[2]](#footnote-0) Thoreau’s statement challenges citizens to consider that failure to personally act against an unjust law is to take part in condoning it. In other words, according to certain legal and philosophical thought, if a law is unjust, then one has an obligation to disobey said law in order to prove its wrongfulness. When discussing the concept of civil disobedience, there are many influential figures, periods, and cultures that have contributed to its development. However, the wave of civil disobedience that spread across the United States in the 1960s was arguably one of history's most important in that it was the distinguishing element of the civil rights movement. Unfortunately, though, the dramatic and volatile nature of many of the events that occurred during this period led other, similar, movements astray in their attempts to partake in meaningful acts of civil disobedience.

*Theory Behind Civil Disobedience*

Henry David Thoreau coined the term ‘civil disobedience’ when he wrote “On the Duty of Civil Disobedience” in 1848 in which he justified his refusal to pay the state poll tax imposed by the American government to fund the war against Mexico and implement the Fugitive Slave Law.[[3]](#footnote-1) The fact is that the;

Mindset behind Thoreau’s abolitionist sympathies forms the foundation for Thoreau’s protest against the United States’ provocation, in 1846, of what Thoreau viewed as an unjust war with Mexico.[[4]](#footnote-2)

Thoreau was, indeed, arrested for not paying the poll tax. However, he was glad to be arrested, as it provided him with a platform for protest. He believed he was possessed of some greater moral obligation to disobey the law in order to speak to a higher sense of justice. In his essay “On the Duty of Civil Disobedience,” he wrote;

If the government requires you to be the agent of injustice to another, then, I say, break the law…what I have to do is to see, at any rate, that I do not lend myself to the wrong, which I condemn.[[5]](#footnote-3)

Thus, in breaking the law, Thoreau was acting upon a higher sense of injustice that he felt needed to be corrected. Thoreau felt an obligation to his country in order to call attention to the wrongfulness of slavery and create a better nation, which would uphold a belief in equality for all of its citizens.

 While it is easy to see how one might object to an atrocity such as slavery, it can be quite confusing trying to grapple with the notion of what constitutes a true act of civil disobedience. If one were to break the speed limit in order to demonstrate a protest against all speed limits imposed by the government, the act would not be sufficient enough to meet the standard of civil disobedience. Rather, the concept requires a seriousness of purpose that operates on a meaningful moral spectrum. More importantly, unless the act disobeys *within* the contours of the regime, it cannot be considered civil disobedience.

 What, then, compels a person to commit an act of civil disobedience? According to Michael Walzer in his 1970 book entitled Obligations: Essays on Disobedience, War, and Citizenship, this would be an obligation felt toward a particular group or entity. In Walzer’s words;

Obligation…begins with membership, but membership in the broadest sense…one does not acquire any real obligations, however, simply by being born or by submitting to socialization within a particular group. These come only when to the fact of membership there is added the fact of willful membership.[[6]](#footnote-4)

Accordingly, when a person feels like a part of a community or society, especially if they have personally chosen to reside within this society, they then feel a certain obligation toward this society. With respect to civil disobedience, then, it can be justifiable to break the law in order to demonstrate an unjust aspect of society, and to try to improve upon this society out of a moral obligation felt toward it. Walzer goes on to point out that civil disobedience is never outright revolution, but rather “the acting out of a partial claim against the state.”[[7]](#footnote-5) Thus, when a person is truly a part of their state and feels strong ties of moral obligation toward it, then they should, if the opportunity arises, disobey unjust laws in order to call attention to them and, therefore, bring about a change within the state. Walzer stresses the importance of a legitimate and justifiable motive in that “all this is not to suggest that there is anything unreal about individual responsibility. But this is always responsibility *to someone else* and it is always learned *with someone else.*”[[8]](#footnote-6) Hence, civil disobedience can never be committed for only individual motives. Instead, it is a feeling of collectivity and responsibility toward one’s state and one’s society that must compel a person to commit an act of civil disobedience. To stress the point of motive, “an analysis of the justifiability of civil disobedience must consider not only the dissenter’s particular action and its likely consequences, but also her motivation for engaging in this act of civil disobedience.”[[9]](#footnote-7)

 What can be considered one of the most widely acknowledged accounts of civil disobedience is that of John Rawls in his 1971 piece entitled A Theory of Justice. In his work, Rawls defends civil disobedience and claims it is a;

Public, non-violent and conscientious breach of law undertaken with the aim of bringing about a change in laws or government policies. On this account, the persons who practice civil disobedience are willing to accept the legal consequences of their actions, as this shows their fidelity to the rule of law. Civil disobedience, given its place at the boundary of fidelity to law, is said to fall between legal protest, on the one hand, and conscientious refusal, revolutionary action, militant protest and organized forcible resistance, on the other hand.[[10]](#footnote-8)

In other words, those who practice civil disobedience willingly accept the legal consequences of their actions, as this will provide the platform for which they will call attention to the injustice of what they are remonstrating against. Furthermore, the act of civil disobedience must uphold the principle of non-violence in order to retain its justification and moral integrity.

Thoreau, Walzer, and Rawls each offer a different, yet overlapping, viewpoint on the purpose and practice of civil disobedience, providing a general guideline for the “how” and “why” a person may commit an act of civil disobedience. While Thoreau penned his thoughts well before the events of the 1960s, both Walzer and Rawls wrote their views in the early 1970s, as the tumultuous events of the preceding decade were reaching their conclusion. Therefore, it is important to keep in mind the relevance of these essays in relation to the real-life examples of civil disobedience, and how they contributed to the deep political and social changes of the 1960s.

*Dr. King and the Civil Rights Movement*

A case for the successful application of civil disobedience was the work of Dr. Martin Luther King, Jr. as the leader of the Civil Rights Movement. King’s theories embodied Rawls’ ideas of non-violent direct action. King’s thoughts and justifications for the movement he led are evidenced in his famous “Letter From Birmingham Jail.” In it, he responded to the criticism of eight white priests from Alabama who argued that the battle against racial segregation ought to take place solely in the courtroom rather than on the streets. However, King responded with great rhetoric in claiming that without the necessary nonviolent forceful direct action that he was leading against racial injustice, there could be no hope for racial equality within this country. King called attention to the notion that “an injustice, wherever it is, is a threat to justice everywhere,” and that, “everyone has a moral responsibility to disobey unjust laws.”[[11]](#footnote-9) This took his thinking a step forward in that it reinforced the belief that civil disobedience was not only justified in the opposition of unjust laws, but that there exists some ultimate moral authority that dictates that necessary action be taken in the face of such injustice. In response to the argument that King and his followers should simply wait until the time was right, King echoed the words of Thurgood Marshall in stating, “A justice too long delayed is justice denied.”[[12]](#footnote-10) However, as King explained, the “wait” has almost always meant “never,” and that “we must use time creatively, in the knowledge that the time is always ripe to do right.”[[13]](#footnote-11)

King’s ideas set in motion a radical quest for civil rights undertaken by a powerful minority. His maintenance of the principle of non-violence was central in keeping with the idea of a justified civil disobedience. King’s philosophy centered heavily upon religion. In essence, he “infused the struggle for racial equality with moral urgency and…religious passion.”[[14]](#footnote-12) Thus King was able to think rationally and to understand that in order to achieve the freedom he sought, he would need to implement and maintain a policy of non-violence.

King’s quest incorporated several different strategies that upheld the notion of non-violence. King and his followers, through their endeavors, sought to emphasize to those who were protesting that they must not resist arrest. By failing to retaliate and by willingly going to jail, King and his comrades were able to send a significant message to the public, gain the attention of the media, and garner support for their quest for freedom and civil rights. Some of the more prominent tactics included sit-in protests, marches, and boycotts.

An excellent example of the use of these methods was the Montgomery Bus Boycott of 1955. This was a social and political campaign, originating in Montgomery, Alabama, intended to call special attention to the injustices of the city’s policy of racial segregation on its public transportation system.[[15]](#footnote-13) The boycott was a great success, in large part thanks to the efforts of leaders such as Dr. King, Rosa Parks, and Ralph Abernathy. King later compared this undertaking to the writing of Thoreau in stating;

I remembered how, as a college student, I had been moved when I first read this work. I became convinced that what we were preparing to do in Montgomery was related to what Thoreau had expressed. We were simply saying to the white community, we can no longer lend our cooperation to an evil system![[16]](#footnote-14)

King described an obligation, inspired by Thoreau’s theory, in that he and his community had to right the wrongful injustice that was occurring in Montgomery, Alabama. This is a true representation of when civil disobedience is relevant and justifiable. King and his fellow protesters were members of the United States of America. As such, they felt moral obligations to their fellow community members to forego using the bus, which was a necessary system of daily transportation for many of them. Instead, they found alternate means of transportation in order to call attention to the unjust laws present in their community and to embody the need for a major change on a national level.

*The Vietnam War Protests*

One of the most turbulent and divisive issues of the 1960s was the Vietnam War. Unfortunately, not all protesters of the Vietnam War were able to maintain the non-violent mentality that led King to such a heroic personification. Instead, many activists, especially across college campuses, turned to more violent and radical means of demonstrating their distaste for the war and all that it stood for. Thus, the campaigns turned from that of justified civil disobedience toward more of a violent and counter-revolutionary method.

 One such example is that of the riots that took place in 1968 on the campus of Columbia University. By this time, the “peaceful” era of Martin Luther King, Jr. had passed and the much more violent and intense Black Panthers were driving what they called the “Black Liberation Movement.”[[17]](#footnote-15) Additionally, the women’s movement had begun to gain fervor, inspiring many liberal-minded thinkers to endorse their cause. These issues, deep and controversial as they were, were a major factor in compelling many young minds to take action and protest. Most important in arousing college-student though, was the fact that the Vietnam War was then in full-swing and the nationwide draft began its implementation.

 Consequently, a militant group of students at Columbia University decided to oppose the institution on the grounds that they disagreed with Columbia’s compliance with the war, and how it was treating the surrounding communities (regarding race-relations). Thus, the students decided to forcefully take over several university buildings, eventually leading to a violent entanglement with the New York City Police Department.[[18]](#footnote-16)

 It is unclear whether or not these students were acting in good faith upon the principles of civil disobedience. It is true that they were trying to demonstrate their belief that the university should not support the war. However in failing to maintain a non-militant, non-violent demonstration, they breached a level of morality that must be maintained when trying to uphold the principles of civil disobedience. This is just one example of the fact that, during this era, there were many student protests that demonstrated how radicals, in the name of civil disobedience, were taking a giant step in the wrong direction.

There was also much debate over whether or not the government could rightfully prosecute those who were disobeying the draft laws and protesting the war. In the case of United States v. O’Brien, a ruling by the Supreme Court of the United States dictated that the law against the burning of a draft card was not in violation with the First Amendment’s guarantee of the freedom of speech. In this case, O’Brien tried to appeal to a higher law in claiming that in burning his draft card, he was exercising his freedom of speech by demonstrating his negative feelings toward the Vietnam War.[[19]](#footnote-17)

Although O’Brien did not win his case, he nonetheless demonstrated an excellent example of civil disobedience. He consciously burned his draft card in a public forum in order to be arrested and bring to the Supreme Court a case he felt was a necessary catalyst for change. Thus, he sacrificed himself by willingly allowing the arrest in order to call attention to his issue and speak to a greater moral authority. He felt the government was unjustified in waging war and in forcefully drafting citizens who did not support it. Unfortunately for O’Brien, the Court took this opportunity to assert that it, along with the rest of the federal government, would stand up to radical threats and prohibit such extremist forms of war-protest.

Ronald Dworkin defended the war-protesters in his 1968 piece entitled “On Not Prosecuting Civil Disobedience.” In it, he acknowledged that civil disobedience must almost always culminate with an arrest. He quoted Erwin Griswold, the Solicitor General of the United States in asserting;

One who contemplates civil disobedience out of moral conviction should not be surprised and must not be bitter if a criminal conviction ensues. And he must accept the fact that organized society cannot endure any other basis.[[20]](#footnote-18)

However, according to Dworkin, this argument is not actually as strong as it seems. In fact, “society ‘cannot endure’ if it tolerates all disobedience; it does not follow, however, nor is there evidence, that it will collapse if it tolerates some.”[[21]](#footnote-19) Dworkin continued on to argue that prosecutors should not bring to court those who disobey draft laws out of conscience because “they act out of better motives than those who break the law out of greed or a desire to subvert government.” [[22]](#footnote-20) Thus, Dworkin makes an excellent case for the moral integrity and righteousness of those who willingly disobeyed draft laws as a means of calling attention to the injustice of the Vietnam War as a whole and to the idea behind the draft. Although Dworkin acknowledged that it is difficult to create a properly functioning legal system with so many variations and exceptions such as these, he made an excellent case for the morality and justification behind civil disobedience in these circumstances.

*Conclusion*

Since it is difficult to succinctly summarize the entire philosophy of civil disobedience, it might be simpler to exemplify the concept through examination of real-life scenarios. The 1960s were a time of tumultuous change during which many protesters chose to act by means that can be related to the writings of great thinkers such as Thoreau, Walzer, and Rawls. Although not all protests during the 1960s could truly be considered justified acts of civil disobedience, there are certainly some, especially those led by Martin Luther King, Jr. who strove to uphold the basic principles surrounding the idea behind civil disobedience, that met the standards of the concept. It is important to stress the fact that to commit an act of civil disobedience, one must be acting for the greater good of a society in which they are a part of, and thus maintain a rightful moral compass. In the words of Martin Luther King Jr., “one who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty.”[[23]](#footnote-21)

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