

# 2021 Regional Philosophthon

## Stimulus 1



### Civil Disobedience

Introduction: What is civil disobedience?

The American philosopher, John Rawls, has defined civil disobedience as follows: Civil disobedience is a public, non-violent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in government laws or policies". In this definition "conscientious" means that the act results from an individual's deeply held views about what is right and wrong i.e. an act of individual conscience. "Political" means that the act is aimed at gaining public support – at convincing the majority of the rightness of the cause. One famous example is campaign led by Mahatma Gandhi in India in 1930 aimed at gaining public support for the repeal of the Salt Act – an act instituted by the British which imposed a sales tax on salt. Another famous example is the civil rights campaign during the 1960's in America's south led by Martin Luther King. This involved breaking laws which imposed racial segregation in buses, restaurants and schools.

Question: Is civil disobedience ever morally justified, and if so, under what conditions?

Two arguments against civil disobedience

1. Civil disobedience is wrong because if everyone disobeyed the law, the legal system would collapse. (What if everyone broke the law?) Reply: Is civil disobedience likely to cause general lawlessness? If civil disobedience were justified for some laws, why would that justify the disobeying of all laws?
2. In a democratic society proper legal and political channels exist whereby unjust laws and policies can be changed. Thus, so long as these channels exist there can be no justification for disobeying the law. Civil disobedience is therefore always wrong.

Reply: What if the minority, which is the subject of unjust laws, has exhausted all the legal channels? Note, further, that a law may be doubtful – there are plausible

arguments for and against it and a significant number of people may have moral grounds for wanting to break it. For example, a law which conscripts young people into the armed forces. Is it always wrong to disobey a doubtful law?

Under what conditions is it justifiable to disobey the law?

1. There has to be sincere and conscientious moral commitment.
2. There is no legal method for attaining the same end.
3. The action must be non-violent.
4. Anyone who disobeys the law must accept the penalty (Between 1956 and 1964 Martin Luther King was arrested 10 times and jailed 4 times.)
5. The activity should be public so that it can influence majority opinion.

Some Questions

1. In accordance with condition (2), what if there were a legal method for changing government policy but using this method would take too long (legal cases can often drag on for years.)? Would civil disobedience be justified in this case?
2. According to condition (3), civil action must be non-violent. What exactly is meant by "non-violent"? Is violence against property acceptable? Is it violent to hold on to a policeman's leg and refuse to let go?
3. In Tasmania during the early 1980's there was a campaign of civil disobedience aimed to prevent the construction of a dam on the Franklin River. Once a river is flooded and a dam is built it is too late to do anything. An unjust law can be repealed but a dam can't be unbuilt. Does the fact that there is so much at stake mean that violent action is justified? Is this civil disobedience or something else?
4. The anti-globalisation movement is opposed to the power of multinational companies, to the effects of unrestricted free trade and other aspects of multinational capitalism, especially as these impact on poor Third World countries. The World Trade Organisation (WTO) has been the focus of protests over the last two years, the aim of the anti-globalisation movement being to prevent meetings of the WTO taking place. Have these protests satisfied the conditions of justified civil disobedience? Does this matter?
5. Do you think that conditions (1) – (5) are all necessary for justifying civil disobedience? Are conditions (1) – (5) together sufficient?

Reference

J. Rawls, The Theory of Justice

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