

A Philosophical Justification of Civil Disobedience in a Democratic State

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Abstract

The question has quite often been posed at various fora regarding the rightness or wrongness of observing or obeying all laws enacted by the Sovereign in a state. However, different answers have equally arisen from different schools of experience. Whereas some persons have argued that it behoves on all subjects of the state to obey its laws, others have equally suggested that it is not every law enacted or promulgated by the state that must be obeyed especially where the said law is anti-people, draconian, and dehumanizing. Consequently, it becomes very imperative for the citizens to deploy all humanly conceivable and peaceful means to frustrate the effectuation of those laws which run contrary to the humanity of the people or citizens of where they are meant to operate. Such means include the use of civil disobedience. This paper therefore attempts to discuss and eventually justify the relevance of civil disobedience as a catalyst of positive change for the stability and sustainability of the democratic process and system of government in a state. It is finally submitted that civil disobedience is inevitable in every democratic system as it surely acts as a check on the excesses and inordinate propensities of government.

Keywords: *Civil disobedience, Democratic State, Philosophy, Sovereignty.*

Introduction:

One of the cardinal issues that have raised a lot of hot air in social and political philosophy is that of civil disobedience. It is a sensitive discourse as it touches on the life-line, law and order of a society. Civil disobedience is traceable to the ancient Greek philosopher, Socrates who brought man to the centre of philosophical discourse. In one of Plato's dialogues, Crito, Socrates argues for the strict submission to the will of the state and the outright dismissal of all manner of civil disobedience. This was exemplified by his refusal to accept Crito's advice to escape from prison after he was found guilty of corrupting the minds of the Athenian youths and worshipping strange gods. The death penalty passed on Socrates by the state was considered by Crito as an unjust death which must be avoided. But Socrates turned down Crito's offer and willingly took the hemlock that led to his death. This Socratic episode paved the way for a hot debate over the justification of civil disobedience. Central to this debate are two cardinal questions: Are there situations in which it would be bad and even immoral to obey the government? Under what conditions would it be morally permissible to break the law?

There are often antagonistic camps whenever the issue of civil disobedience comes to the fore. One camp stands against civil disobedience and the other approves of it. Socrates

has been taken as the greatest proponent for the first group, while we may pick Martin Luther King Jnr. as representative of the second group. For those against civil disobedience, the law ought to be obeyed, whether it is good or bad, in so far as one has chosen to be a citizen where it operates. In other words, it is morally wrong to break the law. The advocates of civil disobedience hold that it is morally permissible to disobey unjust laws since the law is made for man and not man for law. In fact, it is our moral duty to disobey unjust laws.

This debate becomes more controversial when discussed in relation to democracy. Democracy, as it is known is hinged upon what is a generally referred to as civil liberty as its operative principles. These civil liberties include the fundamental human rights of citizens and the Rule of law. But experience has shown that citizens are often faced with certain laws and policies made by government which are regarded as unjust and undermining to the fundamental principles of democracy. In such situations, there are two major options through which the citizens can fight or protest against unjust laws and the ills of the government namely, violent means and civil disobedience (Non-violent means). The former entails wanton destruction of lives and properties while the latter entails peaceful and orderly protest. When compared together, it is obvious that civil disobedience has a more humane approach in dealing with unjust laws and government policies. This explains why civil disobedience is seen as a better mechanism in addressing socio-political problems in a democratic state.

The Concept of Civil Disobedience:

The concept, Civil Disobedience is a derivative of two words, “Civil” and “Disobedience”. Civil can be described as human society or a society of people living together in a political community. Disobedience is a refusal to obey laws in general. Civil disobedience is therefore an organized refusal by a group of people to obey the laws in a political community with the aim of correcting the abnormalities in such laws. It can also be defined as a form of protest in which protestors deliberately violate a law (Suber, 1). It is an illegal action performed for the purpose of making moral protest against an unjust law. It is not just an act of protest that frustrates or aggravates the authorities. It has to be a blatant violation of the law or a disobeying of an explicit order of some civil authority. In line with this thinking, Rawls and Dworkin both consider civil disobedience as “a public, non-violent, conscientious, yet, political act, contrary to law usually done with the aim of bringing about a change in the laws or policies of government (571). The purpose of civil disobedience can be to publicize an unjust law or a just cause; to appeal to the conscience of the public; to force negotiation with recalcitrant officials; to exculpate oneself, or to put an end to one’s personal complicity in the injustice which flows from obedience to unjust laws or some combination of these. Thus, civil disobedience is never a calculated attempt to put down the structures of the society. It is a peaceful act towards a better condition of living. In this same vein, J. Rachels holds that committing civil disobedience, normally, does not involve acting with disloyal, seditious, traitorous, or rebellious intent to insist, even non-violently, the legal consequences of the act (249). For instance, sitting in at some government offices in order to disrupt the course of business and then refusing to leave when ordered to do so would be tantamount to an action of civil disobedience. But what is the difference between civil disobedience and other forms of disobedience (e.g.; criminal disobedience) since they all involve illegal action?

Lawhead answers the above question when he suggests as follows:

The major difference is that civil disobedience (unlike criminal disobedience) is a form of moral protest. It is an attempt to protest some law, policy, or action of a governmental body in order to draw attention to the unjustness of the law, the problems with the policy or the wrongness of a particular action on the part of the government.... In contrast, a simple criminal act does not

have any sort of high-minded purpose. The criminal breaks the law for personal gain (608).

From the foregoing therefore, it can be inferred that for an action to be classified as an act of civil disobedience, it has to satisfy the following conditions: the act of law-breaking must be done by the public; the authorities and the public must be conscious of the fact that the government is being disobeyed; and, the protestors must be willing to face the legal consequences of their actions. This means that those people who engage in civil disobedience must be willing to become martyrs for their moral cause. On the contrary, a criminal action is done secretly with the intent to evade the law. Consequently, civil disobedience is a peaceful revolution aimed at destabilizing the society, but to show the necessity for the abrogation of an unjust law. Hugu further adds that:

Anyone commits an act of civil disobedience if, and only if, he acts illegally, publicly, non-violently and conscientiously with the intent to frustrate (one of) the laws, policies or decision of his government (251).

The concept of Democracy:

Etymologically, the term “democracy” is derived through the fusion of two Greek words, “demos” meaning “people” and “kratia” meaning “rule”. Based on this conception, democracy would then suggest the rule of the people or “a people-based rule”. That is, where the ruled are involved in ruling themselves (Ozumba, 34). In line with this thinking, Abraham Lincoln defines democracy as “government of the people, by the people, and for the people”.

In consonance with the complexity of contemporary society, democracy has been refined to reflect or suit the changing situation. Consequently, the concept has been defined as government by the consent of the governed through elected representatives. Democracy is a system of governance or a government formed on the basis of consensus or majority decision and interest. It involves a popular participation of the citizens in the decision-making process of bringing out the best in man. In brief, we may refer to democracy as a “people-centred” form of government. Given this situation therefore, the question then is: of what relevance or importance is Civil Disobedience to the effective functioning of a democratic state? And, are there instances or other situations in which civil disobedience can be justified? How, and to what extent, does civil disobedience help to facilitate or engender democratic norms or practices?

Civil Disobedience in a Democratic State:

It has often been argued that civil disobedience is not morally justified in a democratic state because it violates the social contract. This opinion holds that we must obey the state. the practice of democracy is usually hinged upon certain operative principles which are incorporated in what is generally required to as freedom of religion, rule of law, and fundamental human rights such as equality (right against discrimination) and right to life etc. All of these are enshrined in the constitution of every intending or emerging democratic state (Asira, 177). Once these civil liberties are ensured, then we can safely suggest that a state is democratic. A democratic state, therefore, is one which takes into cognizance, the liberty and freedom of the citizens. It is one in which the spirit of equality and fraternity prevails. In the final analysis, democracy embodies a moral principle: It stipulates that government does not exist for its own sake but for the enrichment of personality. Consequently, no state is worthy of being referred to as democratic if it fails to the law under a contract with other members of our society. We have tacitly consented to the laws by residing in the state and enjoying its benefits. As such, an act of civil disobedience is a violation of the social contract that every citizen has tacitly approved. Socrates makes this objection to Crito who encouraged him to disobey the law by escaping from prison before he is executed. Socrates had argued that it

would be unjust to break the law of Athens (which hitherto had protected him as a citizen) by escaping. His argument supposedly went thus:

One ought never to act unjustly: it is unjust to break agreement; one has certain agreement with the state; escaping would break an agreement with the state; it is unjust to escape (Blocker and Hanmford 238).

If we believe with Socrates that we have an agreement with our government, does it then follow that we have agreed to obey any and all the laws of the state unconditionally? Is it the case that we are made for laws or the laws are made for us, why should we place so much reference to the unjust law?

Does not Socrates' death sentence at the hands of the Athenian government show that the government is not always justified in what it does? Suppose we all willingly submit to unjust laws, would those in power not turn themselves into untouchables and little gods and goddesses? If we look into the world history, it is obvious that civil disobedience can be a necessary impetus for social improvement. As such, how would history have been different if everyone had believed that it was never justifiable to break the law? Even at the time of Socrates, Athens had been operating democracy. So, without an act of civil disobedience, Socrates would have ceased to teach his philosophy in defiance of the state.

In response to Socrates notion of tacit agreement between the state and the individuals, Thoreau claims that consent to join a society and obey its laws must always be express and never tacit. But, even for Locke whose social contract theory introduces the term "tacit consent", the theory permits disobedience, and even revolution, if the state breaches its own side of the contract. Martin Luther King, Junior claims that an unjust law is not even a law, but a perversion of law. Hence, consent to obey the laws does not extend to unjust laws. Secondly, it is also argued that in a democratic state, civil disobedience cannot be classified because unjust laws made by a democratic legislature can be changed by a democratic legislature. Thus, the existence of lawful channels of change makes civil disobedience unnecessary. And if the rule of law prevails, the legal process will eventually weed out unjust laws.

Thoreau, who carried out civil disobedience in a democracy, had argued that sometimes the constitution of a country or state appears to be the problem, and not the solution. Moreover, resort to legal means may take too long a process.

This, in some way leads credence to the expression, "justice delayed is justice denied". In support of Thoreau, Martin Luther King Jnr. who also undertook civil disobedience in a democracy had reminded us to look more closely at the legal channels of change. For him, if the legal mechanisms are open in theory, but closed or unfairly obstructed in practice, then the system is not democratic in the way needed to make civil disobedience unnecessary. What is pertinent in Thoreau and Luther's submissions remain that the legal process may not be wholly trusted as it is liable to manipulations. It therefore follows that civil disobedience is necessary in all constitutional democracies because the legislative majority can err or, worse still, be misguided by prejudice and thus violate the moral principles underlying the constitution. In fact, as Maduabuchi Dukor has suggested:

What in the end justifies obedience to the state (and its law) is its protection of the rights possessed by individuals under the law (35).

If the individual's right is trampled upon by unjust law, civil disobedience becomes very significant as a means toward which the unjust law could be repealed or changed.

Conclusion:

From the foregoing, it is clear that the existence of civil disobedience in a democratic state is inevitable as it upholds the operative principle of democracy. It is not in any way detrimental to the peace and order of the society; rather, it is an instrument which aims at

ensuring that the civil liberties of the citizens are protected. Furthermore, its presence ensures mutual confidence and trust between the government and the governed. It is a societal instrument for checking excesses of government. It therefore strengthens the foundation on which the democratic institutions are built. To this end, civil disobedience is highly relevant and important to the survival of any democratic state. Since the maintenance and respect of human rights is an end in itself, and not a means to an end.

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