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The Dichotomy of Justice

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The Dichotomy of Justice

Abstract

The history of disobedience is as lengthy as the history of legislation. For as long as there have been laws, there have been those who oppose them. Civil disobedience, as Howard Zinn defines the term, is the “deliberate violation of law for a vital social purpose” (Zinn 2002) - a definition broader than that of Abe Fortas. Fortas’ definition of civil disobedience is the “peaceful, nonviolent disobedience of laws which are themselves unjust and which the protester challenges as invalid and unconstitutional.” (Fortas 1968). The dilemma of which conditions under which dissenters against democratic states are justified lies precisely within these definitions: one is broad, while the other imposes restrictions. In a democratic state where the citizens and the state rely on fair play, any law which violates basic human rights should be disobeyed, as the principle of fair play is being violated. This should not apply to strictly peaceful movements, as the process of amending laws is lengthy, and the systems and processes we have in place to change them are not adequate in terms of brevity.

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The thing worse than rebellion is the thing that causes rebellion. -Frederick Douglass

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Democracies flourish off of the principle that if a citizen is orderly and obedient, a proper payer of taxes, and follower of the law, they will be rewarded with the protection and advocacy of the state. Those who agree with Fortas might claim that when a citizen dissents, they are violating the principle of fair play- the state is benefiting them as a citizen, therefore they should not dissent. The flaw in this argument is that if there is an outright violation of human rights, the principle of fair play has already been violated, per the side of the state. Fair play is not so fair

when there is only one beneficiary in the equation. If a citizen, say of the African American population, is unjustly injured or murdered by the law- the very institution that exists to protect them- the principle of fair play is completely obliterated. The citizen is being taxed for protection under the state, not slaughter via the state. If the institutions that are in place to protect citizens are simultaneously stripping citizens of their rights, they have no other choice but to disobey. Civil disobedience is not a downfall of society, but rather a necessity that allows for the progression of it, as opposed to the decay that submission promotes. Fortas argues that deliberate violations of specific laws lead to overall contempt for all laws, but there is no evidence to prove this claim. On the other hand, there is evidence to prove that in states of high civil disobedience, such as the mass demonstrations of civil disobedience in violation of segregation laws in Albany, Georgia, the general crime rate actually declined. On the contrary, when basic human rights are violated, such as same sex marriage laws or the general human rights of non-whites, if there is no organized way to dissent crime rates tend to rise.

Fortas, having been a Supreme Court Associate Justice, has a bias toward the Supreme Court being able to fix all injustices. The reality is that same sex marriage was legalized in 2015, only two years ago. There were petitions to bring the case to the Supreme Court several times, yet other cases were chosen over it repeatedly. The flaw of our system is that in order to test the constitutionality of a law, citizens must wait an inexpedient amount of time.

Gratitude, like fair play, is conditional. Loyalty to the state should never trump justice, as it is ultimately more unjust to be submissive to ward inhumane laws such as slavery, segregation, and same-sex marriage bans, than it is to disobey the state temporarily in order to draw attention to problems in a timely fashion. Unfortunately, not every unconstitutional law makes it to the Supreme Court before any harm is inflicted. By dissenting from the law in order to protect rights,

citizens are upholding the rights that our first amendment allows them. To paraphrase Frederick Douglass in his quote about rebellion, the reasons for it are worse than the act. Any violation of human rights is cause for dissent - this is what our democracy so beautifully allows us.

Bibliography

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