

MLK ON CIVIL DISOBEDIENCE

"I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizens Councillor or the Ku Klux Klanner but the white moderate who is more devoted to order than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says, 'I agree with you in the goal you seek, but I can't agree with your methods of direct action'; who paternalistically feels that he can set the timetable for another man's freedom; who lives by the myth of time; and who constantly advises the Negro to wait until a 'more convenient season.' Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection." (Martin Luther King, Letter from Birmingham Jail)

In his "Letter from Birmingham Jail" (1963) addressed to Christian and Jewish clergy, **Martin Luther King** offers a defense of civil disobedience, both in this particular case and as a general policy. He has several goals:

- He wants to justify "non-violent direct action sitting." For example, he wants to defend the moral right of black people to sit in places reserved for "Whites only" and refusing to leave until they are arrested.
- He offers an argument that against the principle (apparently defended by many members of the clergy) that "Outsiders do not have a right to participate in the political or moral life of a community." King's response: unjust laws are never purely local in their effects. For one thing, they indicate that the overarching system (e.g. federal law) has structural problems with it; these problems may well result in problems for many people.

King's essay also argues for a distinction between **legality** and **morality**. He notes that there are plenty of cases (e.g., Nazi Germany, Ancient Rome, Biblical stories, etc.) in which obeying a law could be immoral. He thinks that this can happen even in a democracy. That is, *the mere fact that a majority has voted for a law does not mean that you are morally obliged to obey that law.*

BACKGROUND TO KING'S LETTER

"History is the long and tragic story of the fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but as Reinhold Niebuhr has reminded us, groups are more immoral than individuals. . . . We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have never yet engaged in a direct-action movement that was 'well timed' according to the timetable of those who have not suffered unduly from the disease of segregation. For years now I have heard the word 'wait.' It rings in the ear of every Negro with a piercing familiarity. This 'wait' has almost always meant 'never.'"

While the history of race relations in the US (and especially in the states like Alabama, where King is writing from) is long and complex, King mentions a number of people and thinkers that are worth noting:

- **Colonial Times and Revolutionary War.** Slavery was an issue from the beginning of the United States (during the Revolutionary War, several British leaders promised to end slavery if it won, which may have helped convince Southern neutrals and loyalists to join the rebels). In the original drafts of the Declaration of Independence, **Thomas Jefferson** (who was himself a slaveholder) outlined a commitment to eliminating slavery in the US (in keeping with "all men are created equal"). This draft was vetoed by the Southern representatives in the Continental Congress. Jefferson apparently hoped that slavery would slowly die of its own accord, but it actually expanded between 1776 and 1861. The UK outlawed slavery in 1833.
- **The US Civil War (1861 to 1865)** led to the end of legalized slavery. After the war, the federal government engaged in a project of "Reconstruction" aimed at, among other things, establishing the rights of African Americans in the southern states. This was extremely unpopular among southern whites, however, and northern politicians eventually lost the political will to enforce it. The infamous Supreme Court decision **Plessy v Ferguson (1896)** upheld laws instituting racial segregation, so long it was "separate but equal." Again, the hope was that southern states would come to equality "on their own," but the decision effectively destroyed the political power of southern African Americans until 1964.
- **Brown v Board of Ed (1954)** held that racial segregation was "inherently unequal." It overturned Plessy v Ferguson. Many southern states resisted this ruling, sometimes violently. In Alabama (shortly after King's letter), the KKK bombed a church, and killed four girls. The governor **George Wallace** swore that he would support "segregation now, segregation tomorrow, segregation forever," and tried his best to block the desegregation of schools. President John F. Kennedy took control of the Alabama National Guard, and ordered it to help enforce desegregation. This is around the same time that King was arrested (in Alabama) for leading nonviolent protests aimed at ending state and city laws that were still in place.
- **Afterward.** King's actions in Birmingham (and the subsequent KKK violence) helped build national support for his cause. However, in November 1963, the JFK-supported **Civil Rights Act** was blocked by southern legislators, despite the fact that it had enough votes to pass. JFK was assassinated in Dallas, TX on Nov 22, 1963, and Lyndon Johnson managed to pass the law in 1964, along with the **Voting Rights Act** in 1965. King was assassinated in Memphis, TN on Apr 4, 1968, while supporting a group of union workers.

WHEN IS CIVIL DISOBEDIENCE JUSTIFIED?

"In no sense do I advocate evading or defying the law as the rabid segregationist would do. This would lead to anarchy. One who breaks an unjust law must do it openly, lovingly ... and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscience of the community over its injustice, is in reality expressing the very highest respect for law."

Civil disobedience occurs when a person (a) knowingly breaks a law and (b) voluntarily accepts the punishment for doing so because (c) he or she believes that the law is unjust. In his letter to the clergy, King proposes a set of criteria for determining whether a particular act of civil disobedience is morally justified:

- **Condition 1: The laws must, in fact, be unjust.** *The people who wish to engage in civil disobedience must first provide evidence that the laws they wish to break are actually unjust.* In the case of Birmingham (and Southern segregation more generally), evidence is provided that the current situation is manifestly unjust – there is violence against black people, biased law enforcement, and so on. Plus, there is all the harm that segregation itself causes to both black children and adults.
- **Condition 2: There must be legitimate attempt to change the laws using legally allowed processes.** *In a democratic society, one must make a legitimate attempt to change the unjust laws via the process that are provided for in the political/legal system.* For example, one must attempt to field candidates in elections, to publish letters to the editor, to organize petition drives, etc. This requirement is fulfilled insofar as one tried to change the laws via these procedures, and one has no reasonable expectation that they will be changed in this way. In the case of Birmingham, the members of the black community had previously negotiated with owners of segregated businesses, participated in local elections, and done everything else that could be reasonably demanded. They even postponed their planned activity until after an election.
- **Condition 3: The group intending to break the laws must prepare through "self-purification."** *In civil disobedience, the law-breaking act must of a certain type—only unjust laws (or unjustly applied laws) may be broken and the legal punishment proscribed for these transgressions must be accepted.* The intent of breaking the laws must be to draw attention to their injustice (and shouldn't be "because it's fun" or "because I benefit from breaking the law"). "Self-purification" refers to focusing the intent of those who will engage in civil disobedience.
- **Condition 4: Direct action must be carried out appropriately.** If one goes through the above steps, one is justified in breaking a law provided that (a) the law is unjust, (b) one accepts the punishment for breaking the law, and (c) the intent of breaking the law is to help ensure that the law is changed.

The goal of civil disobedience is to change unjust laws. Civil disobedience does this by creating a "crisis", and forcing the community to choose between actively defending the law or changing it. The community no longer has the option of simply "doing nothing."

One possible objection to civil disobedience might be as follows: *Civil disobedience harms lots of people, and helps no one. It harms those who are arrested for participating in it as well as lots of others (e.g., the white-owned businesses that were the sites of the protests). Surely nothing good can come of harming people.* **King's answer:** It's a fact about human psychology that people will stick with a status quo (even if it is inferior to some proposed change) out of fear of the effort it will take to change it. Civil disobedience helps people act in their own long-term best interest (and the interest of justice) by creating immediate negative consequences to maintaining the status quo.

WHAT'S THE DIFFERENCE BETWEEN JUST AND UNJUST LAWS?

"A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law...All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority, and the segregated a false sense of inferiority. To use the words of Martin Buber, the great Jewish philosopher, segregation substitutes an 'I-it' relationship for the 'I-thou' relationship, and ends up relegating persons to the status of things."

Civil disobedience can only be directed against unjust laws; so, a minority can't decide to go on a campaign of civil disobedience just because it doesn't like a law. However, King argues that the mere fact that a law was democratically enacted doesn't mean that it is therefore just. His explanation suggests several different criteria for determining whether a law is unjust:

- **A Kantian/deontological definition:** An unjust law is one that treats a minority as "*mere means*" (i.e., as "tools" for the majority to use). Segregation in the South does this by reserving the best things (the seats at restaurants, schools, etc.) for white people. They nevertheless rely on the black population to do the menial jobs, to serve as consumers, etc.
- **A utilitarian/consequentialist definition:** A law is unjust if it leads to more suffering (and less happiness) than would just laws. In the case of segregation, King argues that we have very good reason to believe this. People would, in general, be better off if these laws were repealed. A lot of people (especially black people) would benefit.
- **General definition based on equality:** On both the Kantian and utilitarian accounts, a just law must treat everyone equally. In order to be just, a law must (a) treat the majority and the minority in the same way and (b) allow the minority a say in how this law is formulated and implemented. The first requirement has to do with the *outcome*; the second requirement has to do with the process that led to the laws' adoption.

PLATO AND MLK ON OBEYING THE LAW

MLK's "Letter from Birmingham Jail" is often compared with a much older text—Plato's *Crito*. In this text, Socrates (who is also in prison for bothering the powers that be) provides an argument for obeying the law even when it harms you. There are some notable similarities:

1. Both are written from the perspective (MLK, Socrates) of people who have been imprisoned unjustly, but who have nevertheless accepted this imprisonment. King was imprisoned for non-violent protest, while Socrates was imprisoned (and would eventually be executed) for annoying people with his philosophizing.
2. Both MLK and Socrates see their actions as trying to *help* the society around them (as opposed to "punishing" or "threatening" their enemies). However, they perfectly well understand that this is not how the people (who they are trying to help!) perceive them. King notes that civil disobedience is intended to "force a crisis", while Socrates compares himself to a "gadfly" that will sting/annoy society into change.
3. Both think there is a duty to some "respect" the law even where particular instances of the law obviously wrong (hence, both accept being imprisoned).

Despite these similarities, there is also a clear difference in the *way* they reason. Socrates argues that he should obey the laws of Athens (even when they are unjust) at least in part because of what he "owes" to the society that raised and sheltered him and in which he has "agreed" to live. This suggests he thinks it would be wrong to intentionally break the laws of Athens (though Socrates definitely had a different understanding of the laws than did his fellow citizens). King, by contrast, famously argues that **"an unjust law is no law at all"**, and argues that he is under no *moral* obligation to obey such laws. Instead, he thinks we can show respect for the law (in general) not obeying such unjust laws, but by *intentionally* breaking them, and then accepting the punishment.

REVIEW QUESTIONS

1. In recent years, there have been a number of prominent political acts aimed at changing laws. To what extent would these count as civil disobedience, according to King's definition. Why? If you think these are NOT civil disobedience (or, if it depends on something not mentioned here), say why.
 - a. After the 2020 presidential election, there were various protests aimed at overturning the results and/or gaining access to the places where votes were being counted. One of these (the January 6 occupation of the U.S. Capital) involved armed groups occupying federal buildings.
 - b. Edward Snowden's (a CIA contractor) decision to make public confidential activities of the CIA, especially as these related to domestic surveillance in the U.S. and in other "friendly" nations. Snowden is now in Russia, and has refused to return.
 - c. The blocking of publicly owned roadways and sidewalks by pro-life groups, unions, anti-tax groups, Black Lives Matters protests, minimum wage advocates, etc. Many accept being peacefully arrested; some do not.
2. King argues that the history of race relations in the U.S. shows that "white moderates" (and the middle class more generally) often stand in the way of social change by prioritizing law and order over issues of justice or equality. So, for example, he thinks that, when civil disobedience happens, these moderates focus on how disrespectful or disruptive it was (or on the bad behavior of some of the protestors) rather than focusing on the actual *issue*. Do you agree with this diagnosis of the problem? Why or why not?