# When is it OK to break the Law? MLK on Civil Disobedience

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

1. 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.
2. 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.”
   1. 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.*

## King on Direct Action

“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.”

“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.”

“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.”

## When is Civil Disobedience Justified?

**Civil disobedience** occurs when a person (a) knowingly breaks a law and (b) voluntary 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:

1. Condition 1: The laws must, in fact, be unjust.
   1. The people who wish to engage in civil disobedience must first provide evidence that the laws they wish to break are actually unjust.
   2. 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.
2. Condition 2: There must be legitimate attempt to change the laws using legally allowed processes.
   1. 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. E.g., one must attempt to field candidates in elections, to publish letters to the editor, to organize petition drives, etc.
   2. 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.
   3. 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
3. Condition 3: Preparation by “self-purification.”
   1. 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.
   2. 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.
4. Condition 4: Direct action is carried out appropriately.
   1. If one goes through the above steps, one is justified in breaking a law provided that 1) the law is unjust, 2) one accepts the punishment for breaking the law, and 3) the intent of breaking the law is to help ensure that the law is changed.

## Why Go Through All of This? The Goals of Civil Disobedience

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/enforcing the law or abandoning it. The community no longer has the option of simply “sticking with the status quo.”

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.*

**Answer:**  It’s a fact about human psychology that people will stick with a status quo (even 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?

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 doesn’t mean that it is just either. He gives 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* for the majority to use. Segregation in the South does this by reserving the best things (the seats at restaurants, 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 bad results. In the case of segregation, King argues that we have very good reason to believe this.
* **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 (2) allow the minority a saw 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.

## Questions

1. Which of these are examples of civil disobedience? Why?
   1. A 19-year-old who believes that the law against underage drinking is wrong, and drinks anyway.
   2. A minister in a state that prohibits gay marriage who decides to perform public marriage ceremonies anyway (and to sign the state marriage license), and is willing to pay any fine that results from this.
   3. A rich person who parks wherever he or she wants, and is perfectly willing to pay the fine that results.
2. Can you think of any laws today that you think warrant civil disobedience? What sort of action might be appropriate?