

ALCIPHON

WHY?

OUR FUTURE IS IN THE TRUTH;
 OUR BEING IS IN THE TRUTH;
 OUR ANSWERS ARE IN THE TRUTH;
 OUR HAPPINESS IS IN THE TRUTH;
 YET, IT IS YOU, O TRUTH, FROM
 WHICH WE RUN WITH SUCH HASTE!
 MEN ARE SUCH FOOLS!

- MINERVA *

THOREAU AND CIVIL DISOBEDIENCE

In recent years civil disobedience has become an increasingly important part of the political scene. It is an alternative which many of us might one day have to seriously consider as we seek to improve our society. To arrive at some understanding of this topic one must first consider a definition of civil disobedience.

Carl Cohen in Civil Disobedience has isolated some common features of most definitions. Civil disobedience is, 1) an act of protest deliberately unlawful, conscientiously and publically performed, 2) usually non-violent in nature and 3) performed within the framework of the existing political authority. A brief discussion of these terms will serve to indicate their intended meaning.

The civil disobedience must of course first break the law and do so deliberately. If a group were protesting an unjust municipal law by parading with placards through the streets and without knowing broke a law which required they have a parade permit, their law-breaking while uncautious was not an act of civil disobedience. The term accidental civil disobedience is then a contradiction. The law one chooses to disobey however need not be the one thought to be unjust; indirect civil disobedience uses a law symbolically appropriate or one that will gain immediate public attention.

Protest of some law believed unjust is the intent of the civil disobedient. A person, by going through a stop light when no other cars are in sight is being deliberately unlawful, non-violent and possibly publically performing for nearby pedestrians but he is not a civil disobedient. His act lacks the spirit of protest to injustice which civil disobedience must embody. Private gain is not its goal. In fact if unsuccessful, civil disobedients stand to lose quite a bit. The protest then should be a conscientious act. The actor is aware of and accepts the penalties that might ensue.

Being an act of sacrifice for higher goal or principle, it is designed to gain public attention of the object of protest. It is moral coercion and a plea for support as the civil disobedient honestly believes he is doing right to act illegally. In itself this is not a justification of the

act but it is a necessary condition for the act to be morally justified. Public performance also requires that the authorities responsible for enforcement of the particular law be made aware that the law was or will be broken.

By "non-violent" I mean that the act does not deliberately and directly use force to injure people or property. Violence in most cases would be inconsistent with the goals of the protesters and their claims to moral integrity.

The final element of the definition indicates that the civil disobedient recognized the validity of the government involved and is willing to submit to its final decision on his action. Political reform is the goal not revolution. If the civil disobedience is indirect, the protesters admit they broke the law and accept punishment. Even in direct civil disobedience it is admitted that the law was broken, but it is attempted in court to prove the law unjust.

The origin of the term civil disobedience is attributed to Henry David Thoreau. Essentially he refused to pay his taxes to a government which accepted slavery and waged an unjust war of territorial expansion in Mexico. Considered in terms of our definition, Thoreau's act was non-violent, indirect and quite deliberately unlawful. His sense of injustice is indicated by his words; "...this people must cease to hold slaves, and to make war on Mexico, though it cost them their existence as a people." Since he openly admitted to the act and later attempted to justify his disobedience in his essay Civil Disobedience, he satisfies the "public performance" requirement of the definition. Along with the fact that he did not resist going to jail these considerations allow Thoreau's act to be called civil disobedience in terms of our definition.

Final remarks should probe some of the problems involved in justification of civil disobedience. If it is to be justified it cannot be done legally, since the legal system can't be expected to permit the breaking of laws which it must believe to be justified. To bring a law to the court's attention it is usually necessary to break that law. While this is unfortunate and may aid one in gaining sympathy towards his disobedience it is not a legal justification. Even if someone breaks the law and is successful in his defence, the legal decision is that he was not actually disobedient; not that his disobedience was right.

Justification must then come from outside the legal system such as an appeal to divine or natural law, or simply to higher governmental authority. Thoreau placed emphasis on conscience as the final point of reference, a natural law appeal to basic criteria of moral conduct. Even given agreement on basic moral principles there is great difficulty in getting agreement on interpretation of the standard used and how it applies to the particular case. Appeals to the constitution might

seem more realistic but the problem of interpretation and application still remain very difficult.

In what is termed the utilitarian argument the protester says that his act, given all the circumstances involved will in the long run lead to a better society than if he had obeyed. While the person who appeals to a higher law in effect says he was obeying some over-ruling source rather than simply disobeying the law, the utilitarian argues that breaking the law in his situation was the best means to a valued end. In most instances it is probable that the utilitarian approach can get agreement about his end goal which will be something like opposition to violence or poverty. Justifying his method will be much more difficult if only for the reason that no significant study has been done by social scientists on the effects of civil disobedience.

Often civil disobedience is interpreted as contempt for the law, as taking the law into one's hands and encouraging disrespect and anarchy. This I think is a reaction to disobedience in the guise of civil disobedience. The spirit of civil disobedience is conscientious and self-sacrificing in its acceptance of legal and resulting social penalties and in its public notification of intention. The civil disobedient does not intend to undermine the authority of all laws by a claim to other standards. He is however saying that free people must choose between obedience and disobedience for any law, but he is careful to note that one of the major moral considerations is his obligation to respect the rightful legal authority as far as possible. Civil disobedience then may cultivate respect for laws as it takes them quite seriously. If anyone follows the example of a civil disobedient, it would rarely be for the fun of possible maltreatment and legal punishment. Civil disobedience can create public sensitivity to the significance of laws and to the possibility of injustice in a very complex society.

Cohen suggests that Thoreau places himself above the law and becomes a rebel. But Thoreau is more Utopian than revolutionary and would just as soon have no involvement in government at all. Yet the spirit of his act might best be embodied by the following statement from his essay, "But to speak practically, and as a citizen... I ask for not at once no government but at once a better government. Let every man make known what kind of government would command his respect, and that will be one step toward obtaining it." Because Thoreau did not try any lawful means to alter government policy before resorting to civil disobedience it would be difficult to justify his actions. Despite this, one cannot help but feel an affinity to the sensitivity and conviction that animated his actions. The world would profit greatly if people in this sense were more thoroughly Thoreau.

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