

# Civil Disobedience, MLK Style (20180216)

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## Part I: Why?

Let's assume that we are going to engage in some civil disobedience.

We hold that there is some injustice going on that we wish to put an end to. In order to put an end to it we have to draw people's attention to that injustice and motivate them to take action against it. We have judged – or, at least, we are considering the option that – civil disobedience is the proper means to end this injustice.

Furthermore, let us assume that we have resolved to do this in the style of Martin Luther King.

What are we going to do?

We are going to create some tension. We are going to bother some people. We are going to grab society by its metaphorical lapels and shout, “Hey, you, there’s a problem here! Fix it!”

*Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored.*

When we carry out this action, the people of power and privilege are going to tell us that we are doing it wrong. You can count on that. However, if we were to ask them how they come to believe that we are doing it wrong, their answer will ultimately reduce to they claim, “Because we can hear you.” They want us to confine ourselves to a level of protest that they can shut off and ignore.

However, people who engage in and perpetrate injustice have no right to be undisturbed. The person who is robbing a convenience store has no right to be left alone. The person dragging a screaming child into a van has no right not to be bothered.

*I must confess that over the past 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 his stride toward freedom is not the White Citizen's Council or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice.*

However, the error in asserting that simply being heard is to go too far does not deny the fact that it is possible to go too far.

The people who engaged in the 9/11 attacks were engaged in an act of political protest. Those who planned and carried out the Oklahoma City bombings were engaged in political protest. Every terrorist act – or nearly all of them – were acts of political protest. Those protests go too far.

This means that somewhere between whispering your complaints to your teddy bear before going to sleep and a terrorist bombing there is a line that separates legitimate acts of protest from illegitimate. Where is that line?

According to King, it is the line between unjust and just law.

As King said, "Unjust law is no law at all." By this he means that unjust law is not binding on the conscience. The fact that people with power and privilege have made injustice legal does not imply that they have given the victims of injustice an obligation to accept that injustice.

If I may offer a quick note on the relationship between law and morality, the obligation to obey the law, if it exists, is a moral obligation. You can talk about a distinct legal obligation, but what is that other than the prudence of obeying somebody who is threatening you? If I pull a gun on you and demand your wallet, you may think it wise to give it to me, but I do not create an obligation for you to do so.

Indeed, how can the law give you a moral obligation to do that which is unjust? Injustice is, precisely, that which it is wrong for you to do. Either the law can make anything just – and, this, morally permissible – which is absurd. Or it is possible for the law to command you to do things you have no obligation to do and which, in fact, you may have an obligation not to do.

Unjust law is law that there is no moral obligation to obey.

King made this assertion in addressing an apparent contradiction in his actions. He insisted – demanded – that other people obey the law against segregation, and yet he violated other laws himself and led others in doing the same.

In response to this accusation, King said that the difference is found in the fact that anti-segregation law was just law and, as such, a law everybody had both a legal and moral obligation to obey. The laws he violated were unjust laws – and were not laws that people had an obligation to obey. They were not binding on the conscience.

*Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may well ask: "How can you advocate breaking some laws and obeying others?" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws.*

So, where do we draw this line between just and unjust law?

King said,

*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. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law.*

Here, I must register an objection. The atheist can recognize a moral code independent of the law.

You see, outside the window, a tree. Many theists will tell you that the tree would not exist if not for God. The atheist denies that there is a god. However, the atheist does not deny that there is a tree. The atheist simply says that the tree did not come from a god.

Similarly, a theist may say that morality would not exist without a god. The atheist says there is no god. But the atheist need not say that, as a result, there is no morality. Such an atheist simply says that morality comes from a god.

Can we make sense of this distinction between just and unjust law without reference to a god?

Would a just society have a law against hijacking passenger airplanes and flying them into sky scrapers? Yes, they would. This is a just law – and, as such, it is morally binding on everybody. The political protestor who violates this law has gone too far.

Would such a society have laws against setting fires to buildings (arson), smashing the windows of a store or residence and running off with the owner's property (looting), or destroying property one does not own (vandalism). Of course. These, then, are just laws. And, as such, they bind the conscience of every right-thinking person.

But would a just society treat blacks and whites differently?

*[W]hen you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six year old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her eyes when she is told that Funtown is closed to colored children, and see ominous clouds of inferiority beginning to form in her little mental sky . . .*

And on and on.

Would a just society permit such things? Even, in some cases, require them?

Segregation was the law in Birmingham Alabama. Some stores took down their signs. The city of Birmingham reminded them that the law required them to segregate their black and white customers. The signs went back up.

Now, the law that King was arrested for was “parading without a permit”. And King admits,

*there is nothing wrong in having an ordinance which requires a permit for a parade.*

So, how does he justify violating this law?

Well, an otherwise just law becomes unjust when it is selectively enforced so as protect injustice.

*But such an ordinance becomes unjust when it is used to maintain segregation and to deny citizens the First-Amendment privilege of peaceful assembly and protest.*

Remember, our goal is to make noise, to focus attention on a problem so that it can be fixed.

For that reason, King and those he worked with scheduled their parade for Easter weekend. They selected Easter because it was the second biggest shopping season of the year – the biggest outside of

Christmas. They selected it because they wanted to be heard, and by having their parade on Easter weekend they would speak more loudly and attract more attention than they could at any other date in that time of year.

As King said, there is nothing wrong with an ordinance that requires a permit. So they applied for a permit. They did not merely show up and decide to block traffic. They followed just law and, determining that having an ordinance which requires a permit was not unjust, they filed their application.

However, the city denied them a permit. The city did this to weaken the protest – to deny the protest potency - to prevent the protestors from being heard. Almost certainly, if the Veterans of Foreign Wars had asked for a permit they would have gotten one. If the Boy Scouts had asked for a permit, they would have gotten one.

*But such an ordinance becomes unjust when it is used to maintain segregation and to deny citizens the First-Amendment privilege of peaceful assembly and protest.*

So, the city was enforcing this law – otherwise just – arbitrarily in the service of injustice. This made the denial of a permit unjust and, as such, no law at all.

Ultimately, the day after our act of civil disobedience, we will hear two conversations.

There will be a conversation about what we did, and there will be a conversation about why we did it. Our job is to shine a light on the injustices that we seek to eliminate. Our job is have people talking, not about what we did, but about why we did it.

Meanwhile, people of power and privilege are going to want to bury talk about the reason for our protest and focus, instead, on what we did.

If, on the day after our demonstration, people are talking about what we did, rather than why we did it, then we have failed. So, our objective must be to do nothing that shifts the conversation to what we did, allowing people to discuss, instead, why we did it.

*In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so 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 who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.*

And, so, with these principles in mind, let us now take action.

## Part II: How?

In the previous section, I discussed the “Why?” of civil disobedience – setting out its legitimacy, and its limits.

Mindful of the moral law, King also argued that there was a proper way to go about civil disobedience – a proper set of steps to go through.

These are:

1. Information Gathering
2. Negotiation
3. Purification
4. Direct Action

### Information Gathering

Do you know anybody who ever protested an unjust cause? Is it possible to engage in an act of civil disobedience and to have been demanding that which you had no moral right to demand?

Think of Nazi and KKK rallies. Think about lynch mobs. The Civil War was a political protest.

The question of whether people can protest in defense of injustice – of course they can.

Do we wish to be involved in a political protest in defense of injustice?

By definition, if we are following the natural law, the answer is, “No.” We must make sure that our cause is just. This means that we must base our case on the facts. Did the police officer actually shoot the black person unjustly, or are we believing this because the cop is always guilty? Do we have the evidence we need, or are we twisting the evidence in our own mind to force it to support the conclusion we want to be true?

In the case of the Birmingham march, the facts were in.

*There can be no gainsaying the fact that racial injustice engulfs this community. Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of brutality is widely known. Negroes have experienced grossly unjust treatment in the courts. There have been more unsolved bombings of Negro homes and churches in Birmingham than in any other city in the nation. These are the hard, brutal facts of the case.*

Of course, King only needed to mention the segregation laws:

*SECTION 369. SEPARATION OF RACES: It shall be unlawful to conduct a restaurant or other place of the serving of food in the city at which white and colored people are served in the same room, unless such white and colored persons are effectually separated by a solid partition extending from the floor upward to a distance of seven feet or higher, and unless a separate entrance from the street is provided for each compartment.*

*SECTION 597. NEGROES AND WHITE PERSONS NOT TO PLAY TOGETHER: It shall be unlawful for a Negro and a white person to play together or in company with each other in any game of cards, dice, dominoes or checkers. Any person, who being the owner, proprietor or keeper or superintendent, of any tavern, inn, restaurant, or other public house or public place, or the clerk, servant or employee or such owner, proprietor, keeper or superintendent, knowingly permits a Negro and a white person to play together or in company with each other at any game with cards, dice, dominoes or checkers in his house or on his premises shall, on conviction, be punished as provided in Section 4.*

## Negotiation

The facts established, the next step we must take is that of negotiation.

This is common human decency, right? If your roommate is doing something that you find intolerable, the first thing to do is to confront them and tell them to stop. They come into the room, or you leave them a note, and you say, "We have to talk."

Furthermore, these negotiations involved specific and verifiable actions, not vague principles. For example, the protesters demands repeal of the segregation laws and of segregation itself. They also demanded the establishment of a bi-racial committee empowered to bring about the desegregation of the public schools.

So, for our project, once we have the facts, we need to come up with a set of specific and verifiable demands and present them to the people of power and privilege.

## Purification

The term "purification" sounds like some sort of ritual of fasting and prayer, but pay attention to how King described it.

*We began a series of workshops on nonviolence, and we repeatedly asked ourselves: "Are you able to accept blows without retaliating?" "Are you able to endure the ordeal of jail?"*

Before they took action, they drilled. They would pretend to be sitting at a lunch counter while others harassed them and even became violent to train their volunteers not to fight back. They practiced taking abuse without retaliation. They practiced burying their instincts effectively to make sure that people were talking, not about what they did, but why they did it.

*What were they doing?*

*Sitting at a lunch counter.*

*Is that it?*

*Yeah.*

*They were beaten and arrested for sitting at a lunch counter.*

Think of how things would have been different if they had fought back. People would be talking about the brawl, and fail to see the reason for the action.

I also want to note what these protesters wore. Suit and tie for the men, dresses for the women. It is what people in that era would call "church clothes". Again, the purpose of these choices was to make sure that people focused on what was done, and not who did it.

If you pay attention to current political demonstrations, you will notice a common practice. That practice is to focus attention on the most extreme kooks in the demonstration and to present them as if they demonstrated the common views of the demonstrators. It is a type of straw man argument. This purification ritual aimed to make sure that there was as little of this as possible.

## Direct Action

You have the facts. You have done the things that the moral law demands. You have prepared yourself to follow the moral law once the demonstration starts – meaning that you will violate no just law in the course of the demonstration though you are unbound by unjust law. You are ready to make sure that you have done and will do nothing that will help the people with power and privilege shift attention to what we did rather than why we did it.

Now, we act.

## Conclusion

This, then, is our plan of action.

Our goal is to make noise, to draw people's attention to an injustice and give them a reason to correct it. Our goal is to make people uncomfortable and, as soon as justice is established, we will remove the source of this discomfort.

In our actions, we are bound by the moral law. The moral law demands that we collect the facts that ensure that our cause is just. It also demands that we continue to conform our actions to the moral law as we go through this process. We are compelled by conscience to obey all just law justly enforced. However, we recognize no obligation to obey unjust law or law that has been twisted to serve an unjust cause. We are compelled to treat those with which we disagree as equals deserving respect, but not as masters who have a right to our obedience.

If they fail to do the same, we will exercise our right to object and to cause a discomfort that the unjust can best escape from by replacing injustice with justice.