**Resolved: Civil disobedience in a democracy is morally justified.**

**AFFIRMATIVE**

LD AFFIRMATIVE CASE

The history of democracy is rich with stories of civil disobedience. The affirmative case argues that when laws are unjust, it is immoral for individuals to comply with them. Just as the Nuremburg Trials found that merely “following orders” is an insufficient justification for bad acts, so too does the affirmative argue that a person’s obligation to justice and morality is more important than their obligation to blindly obey the state.

**VALUE: JUSTICE**

WE HAVE A NATURAL DUTY TO UPHOLD JUSTICE

John Rawls, Professor of Philosophy at Harvard University, THE JUSTIFICATION OF CIVIL DISOBEDIENCE, Civil Disobedience, 1969, p. 245.

The two chief virtues of social institutions are justice and efficiency, where by the efficiency of institutions I understand their effectiveness for certain social conditions and ends the fulfillment of which is to everyone’s advantage. We should comply with and do our part in just and efficient social arrangements for at least two reasons: first of all, we have a natural duty not to oppose the establishment of just and efficient institutions (when they do not yet exist) and to uphold and comply with them (when they do exist); and second, assuming that we have knowingly accepted the benefits of these institutions and plan to continue to do so, and that we have encouraged and expect others to do their part, we also have an obligation to do our share when, as the arrangement requires, it comes our turn.

**CRITERION: THE DIFFERENCE PRINCIPLE**

INEQUALITY IS JUST ONLY IF IT ASSISTS THE MOST DISADVANTAGED

William E. Forbath, JD at UT-Austin, CONSTITUTIONAL WELFARE RIGHTS: A HISTORY, CRITIQUE, AND RECONSTRUCTION, Fordham Law Review, April 2001.
The difference principle, you'll recall, states that institutionalized inequalities must be justified by dint of being in the interests of the least advantaged. Inequalities that do not redound to the benefit of those at the bottom are illegitimate. For Rawls, this principle is not cashed out through income standards or transfer payments alone; it must imbue the general "organization of the economy," and the distribution of wealth, power and authority as well as income.

THE DIFFERENCE PRINCIPLE IS THE FUNDAMENTAL MEASURE OF JUSTICE

John Rawls, Professor of Philosophy at Harvard University, POLITICAL LIBERALISM, 1993, p. 5-6.

Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value. Social and economic inequalities are to satisfy two conditions: (a) They are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and (b), they are to be to the greatest benefit of the least advantaged members of society.

**CONTENTION ONE: MORAL PEOPLE HAVE A DUTY TO PEACEFULLY DISOBEY UNJUST LAWS**

A. CIVIL DISOBEDIENCE MUST BE PEACEFUL

Frances Olson, JD at UCLA, PEACE, CIVIL DISOBEDIENCE, AND ANTI-DISCRIMINATION LAW: A CRITICAL APPRAISAL OF REASON AND POLITICS, University Of Miami Law Review, April 2003, p.993.

Civil disobedience is active and non-violent. Many of the British and American suffragists demanding that women be allowed to vote engaged in non-violent civil disobedience quite effectively. Moving to the present day, some of the Israeli women trying to end the occupation and bring peace to the Middle East have begun engaging in civil disobedience. During the winter of 2002, women from Europe non-violently removed roadblocks in the Occupied Territory. This is one way to counter the increasing aggression of the war camp without resorting to violence.

B. IT IS MORALLY WRONG TO OBEY AN UNJUST LAW

Martin Luther King, Jr., civil rights leader and minister, THE AUTOBIOGRAPHY OF MARTIN LUTHER KING JR., 2001, ch. 2.

During my student days I read Henry David Thoreau's essay "On Civil Disobedience" for the first time. Here, in this courageous New Englander's refusal to pay his taxes and his choice of jail rather than support a war that would spread slavery's territory into Mexico, I made my first contact with the theory of nonviolent resistance. Fascinated by the idea of refusing to cooperate with an evil system, I was so deeply moved that I reread the work several times. I became convinced that noncooperation with evil is as much a moral obligation as is cooperation with good. No other person has been more eloquent and passionate in getting this idea across than Henry David Thoreau. As a result of his writings and personal witness, we are the heirs of a legacy of creative protest. The teachings of Thoreau came alive in our civil rights movement; indeed, they are more alive than ever before. Whether expressed in a sit-in at lunch counters, a freedom ride into Mississippi, a peaceful protest in Albany, Georgia, a bus boycott in Montgomery, Alabama, these are outgrowths of Thoreau's insistence that evil must be resisted and that no moral man can patiently adjust to injustice.

**CONTENTION TWO: CIVIL DISOBEDIENCE CREATES A MORE JUST SOCIETY FOR THE LEAST WELL-OFF**

A. CIVIL DISOBEDIENCE HAS EMPIRICALLY FAVORED THE RIGHTS OF THE MOST DISADVANTAGED

William P. Quigley, Professor of Law at Loyola New Orleans, THE NECESSITY DEFENSE IN CIVIL DISOBEDIENCE CASES: BRING IN THE JURY, New England Law Review, Fall 2003, p. 21-24.

In 1846, Henry David Thoreau was jailed for refusing to pay his poll tax in protest of both slavery and the Mexican-American war and wrote his famous and influential essay, "On the Duty of Civil Disobedience."  Since the early 1800s, groups of laborers walked off their jobs, conducted sit-ins, strikes, boycotts, and pickets in the efforts to gain recognition and bargaining power for unions, for living wages, and for safe working conditions.  Advocates of women's suffrage, and later women's rights, used "direct action, civil disobedience, public disruptions and passive resistance" in order to fight for their rights. In 1872, Susan B. Anthony was convicted for the crime of voting and in 1917, over two hundred women were arrested for illegally protesting in front of the White House. There was significant public opposition to America's involvement in World War I. People were convicted for speaking against the war and for refusing to be inducted into the military - including seventeen men who were sentenced to death and another 142 who were given life sentences. During World War II, there was an active peace movement that protested and lobbied; tens of thousands of men refused to kill in the military, thousands of whom were imprisoned for their actions. The civil rights experiences, however, constitute the most powerful examples of civil resistance and civil disobedience. During the 1960s, sit-ins resulted in over 3,000 prosecutions for criminal violations of civil disobedience.

B. DISOBEDIENCE IS MORE EFFECTIVE THAN VIOLENCE AT EFFECTING SOCIAL CHANGE

David Lyons, Professor of Philosophy and Law at Boston University, MORAL JUDGMENT, HISTORICAL REALITY, AND CIVIL DISOBEDIENCE, Philosophy And Public Affairs, Vol. 27, No. 1, Winter 1998, p. 40.

Thoreau, Gandhi, and King believed, with good reason, that their systems required fundamental change. They did not regard themselves as morally bound to obey unjust laws. No such notion framed the dilemmas they confronted when contemplating unlawful resistance. Their acceptance of legal sanctions signified a strategic, not a moral, judgment. Gandhi’s and King’s rejection of violence reflected both moral scruples and prudent judgment, not an outlook favoring modest reform. Violence was not a promising means of effecting the sort of social changes they sought, which included the support of those who were bound to lose their privileged status in a more equitable society.

**NEGATIVE**

LD NEGATIVE CASE – BEEHIVE BONANZA 2017

All examples of justified civil disobedience throughout history have been concerning people attempting to subvert tyrannical, dictatorial, or oppressive governments. Democratic societies, which protect minority rights, should not tolerate uses of civil disobedience as an excuse for mob rule. Democracies are governments constructed to allow for representation of citizens; therefore, citizens should show their protest of their government by voting or other legal methods of change. Participating in civil disobedience in a democratic society only operates to hurt your neighbors.

VALUE: THE BODY POLITIC

VALUING THE BODY POLITIC IS VALUING OUR “NEIGHBORS”

Robert P. Lawry, Professor of Law, Case Western Reserve University School of Law, Director of Center for Professional Ethics, ETHICS IN THE SHADOW OF THE LAW: THE POLITICAL OBLIGATION OF A CITIZEN, Case Western Reserve Law Review, Spring 2002, p. 700-701.

So far, Thoreau seems to be saying two things. First, he thinks government is, at best, a necessary evil. He thinks people accomplish things. Government just gets in the way. This is a very American impulse, seen in the early Constitutional debates to have "limited" government, and seen today in its clearest form in Ronald Reagan's ascendancy to the Presidency and his legacy not just in conservative Republican thinking, but in much of the Clinton administration's positions as well. Seen as a healthy suspicion of those who seek power or as a political principle embodied in such ideas as "subsidiarity, the impulse toward limited government may be salutary. However, the tendency to distrust government can lead to utopian fantasy, or worse, practical naivete. We are political and social animals, as the ancients taught us. We need each other. In fact, we cannot do without one another. This is true not just in the minimal sense of needing some joint protection from adversaries, but also in our need to have an organization coordinating the myriad activities of any group. Thoreau is symptomatic of the problem. He refuses to pay the poll tax because he considers it an "allegiance" tax, one that binds him to the state. However, he "never declined paying the highway tax," as he viewed paying that tax as demonstrating him to be a "good neighbor." But surely he did not pay money directly to his neighbors to see that the roads were built and maintained. He paid the money to the State. As was suggested before, the State is simply the mechanism whereby the body politic operates. And the body politic is our "neighbors." Here is a compelling example of where the anti-State rhetoric spins out of control. The State is not the community; but the community needs to act in important ways through the mechanism of the State. If the State is destroyed, another State will be built. There is no other way. Of course, that does not mean that certain forms of government should not be overturned, or at least that some non-cooperation is not warranted. It just means we ought to understand what we are doing when we "rebel and revolutionize." It seems to me allegiance to a State is more complicated than allegiance to governmental leaders or to their laws and policies. It always entails some allegiance to the body politic, to our "neighbors," if you will. We damage them when we damage the State. Again, this does not mean it cannot or should not be done. It only means we ought to be aware of what we are doing, whom we are injuring, and how we are injuring them. Remember the Naomi's final point to Socrates: If you break the law--especially one the lawbreaker does not consider unjust--you injure "yourself, your friends, your country, and us."

**CONTENTION ONE: UNITY FOR THE WAR ON TERRORISM**

A. HONG KONG POLITICAL REFORMATION SHOWS CIVIL DISOBEDIENCE DESTROYS UNITY

James Tien Pei-chun, chairman of the Liberal Partyin Hong Kong, WHY PATIENCE IS A VIRTUE, South China Morning Post, February 25, 2004, p. 13.

Moreover, reforms have to be made in accordance with practical conditions in Hong Kong. The Liberal Party shares the political aspirations expressed by the public in the two protest marches, on July 1 and January 1, but we are anxious to make progress through harmony and careful deliberation. We do not wish to see action from any quarter which might try to steamroller radical measures on to the agenda, by encouraging people to take part in acts of civil disobedience. If that were to happen, the outcome would be factional strife and public discord. The unity which has been the hallmark of our city for so many years would be destroyed.

B. ONLY ACTING IN UNITY CAN WE BEAT TERRORISM

The Atlanta Journal-Constitution, NQA, ONLY IN UNITY CAN WORLD EFFECTIVELY FIGHT TERRORISM August 20, 2003, p. 12A.

"By their tactics and their targets," the president pointed out, "these murderers reveal themselves once more as enemies of the civilized world . . . All nations of the world face a challenge and a choice."
That, too, is exactly right. All terror attacks are meant to be symbolic, and the symbolism of this attack on the United Nations is unmistakable. This is, indeed, a fight for all nations. And if it is to win that fight, the civilized world has to confront this challenge together.

CONTENTION TWO: THE LAW IS NECESSARY TO ESTABLISH MORALITY

A. WE CANNOT UNDERSTAND MORALITY WITHOUT THE LAW

Robert P. Lawry, Professor of Law, Case Western Reserve University School of Law, Director of Center for Professional Ethics, ETHICS IN THE SHADOW OF THE LAW: THE POLITICAL OBLIGATION OF A CITIZEN, Case Western Reserve Law Review, Spring 2002, p. 657.

For me, the positivistic separation between law and morality has thinned efforts to understand each. It is like trying to understand the left hand without mention of the right hand. It can be done, but every effort at real understanding entails an attempt to come to terms with both. The great positivist, Oliver Wendell Holmes, Jr., called the law "the witness and external deposit of our moral life." Simultaneously, Holmes insisted that even the language of law and morality must be distinct. Law influences morality as morality influences law. It is a dynamic two-way street. This is not a definitional issue. It makes sense to talk of "unjust laws." It just makes no sense to try to understand one without trying to understand the other. This may seem an audacious statement. However, I think one's specific moral obligation in a given case is often shaped or dictated by law in reasonably just democratic societies. We stop at a red light in city traffic because we do not want to cause an accident that brings harm to ourselves or to others. However, we stop specifically because the light is red and the law directs up to stop. Thus, although the question "What should I do in the face of an unjust law?" is wholly "ethical," it cannot be answered without grappling with the concept of law itself.

B. SOCRATES IS MORAL BECAUSE HE OBEYS THE LAW, EVEN IN THE FACE OF THE BIGGEST INJUSTICE – HIS OWN EXECUTION

Robert P. Lawry, Professor of Law, Case Western Reserve University School of Law, Director of Center for Professional Ethics, ETHICS IN THE SHADOW OF THE LAW: THE POLITICAL OBLIGATION OF A CITIZEN, Case Western Reserve Law Review, Spring 2002, p. 678.

He was philosopher, teacher, and gadfly; he was also citizen par excellence. As the famous ending of the Phaedo has it, Socrates was the bravest, wisest, and most just of all men. Superlatives aside, since his death--and partly because of the way he died--Socrates has been one of the supreme moral exemplars in the history of western civilization.The steadfastness of his personality and his principles in obeying the law leading to his own death have had much to do with this historic assessment. Indeed, it is not superfluous to add that it would have been "scandalous" for Socrates to escape. I believe it is self-evident that we admire him because he stayed. He taught us something by his refusal to escape, by his adherence to law in the face of death. What he taught was not blind obedience to law, but how to live and die a "good" man.