LD AFFIRMATIVE CASE – BEEHIVE BONANZA 2017

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.