Civil Disobedience: A Legitimate Response

Round Table Discussion with Isabelle Fremeaux,¹ John Jordan, Yvan Gradis,² and Sandra Laugier³

Over the past few years, acts of civil disobedience seem to have spread and intensified, with legions of protest groups and collectives of “disobeyers.” In spheres as diverse as education, unemployment benefits, and, of course, tracking illegal immigrants, the calls for resistance to orders or decrees considered to be unjust have grown exponentially. Press articles, television programs, and militant, journalistic, and scientific publications devoted to it spring up every day.

“Civil disobedience” means different things to different people and covers extremely diverse tactics, from direct action (“citizens’ inspections” of military sites, and defiance of legal limits on protest) to passive resistance. Militant/activist demands are widely debated. Their relationship with classic forms of militancy which they are seeking to update is equally commented on and analyzed. Yet civil disobedience is rarely understood as being a crucial part of representative democracy. The work Pourquoi désobéir en démocratie? [Why Disobey in a Democracy?] sets out to fill this gap in understanding. Mouvements has therefore launched a debate with activists and protesters.

Mouvements: When did you decide to resort to civil disobedience?

John Jordan: There are many ways to answer that question, for instance, by citing abstract theory, my analysis of the situation, militancy, or the need to effect change. But at the time, it was very much an intuitive thing. I believe that when you make such a decision, you do it because your...
heart and soul direct you to it. I can now theorize about it and see that everything that we take for granted, like contraception, is born of disobedience. There are at least two kinds of reasons: some are intuitive, others are explicitly political.

Isabelle Fremcaux: That decision stems from disillusionment with what is nowadays presented as democracy coupled with a trite argument about the right to protest: you can protest and demonstrate but only within the law. That is oxymoronic. If you protest and demonstrate only within legal bounds, you will never change anything. Once you see that, things become clear: if you disagree with a law or a policy, you need to show disobedience.

Civil disobedience has been a truly exhilarating release, a real eye-opener: what motivates me and drives me in politics is direct action – not just disobedience. It is the will to take my life in my hands and make my own decisions about what I am concerned about. It is a twofold decision: there is the disillusionment and the realization that the traditional forms of politics lead nowhere, but there is also a positive choice. You never want to lose that feeling of having taken charge of your life.

J.J.: Disobedience is not merely a means to an end. Of course, disobedience is a refusal to obey a law with the aim of changing it. Once the law has changed, the situation normalizes. For me and for Isa and the movements we work with, the tactic is not the last step or dependent on what comes before; disobedience is therefore not only the last resort. It is not a tactic to be used after all the other remedies have been exhausted, like writing to your Member of Parliament, organizing a demonstration, drawing up a petition and then realizing that this has changed nothing.

What we assert though direct action and civil disobedience is something completely different: what we want to do is create our own world and not depend on the powers that be, whatever their form. From this viewpoint, disobedience is not simply an action the authorities can give media coverage to. The disobedience I am speaking about here should be differentiated from other forms of disobedience. Greenpeace’s actions, for example, are geared to creating media images. This works very well and has great significance because it helps to write a story and it stimulates the imagination. For us, though, the process of creating an image is as important as the image itself.

Yvan Grandis: Many militants in the anti-advertising movement, especially those who are part of the disobedience trend who deface posters, are often concerned that advertising agents actually re-use their work. This is actually already happening: it’s already been done. Certain advertisements even include forms of defacement. I always say to the anti-advertising brigade that their concerns are unwarranted. What is important is the act in itself as well as the fallout of the action rather than the result of the act. When the anti-advertising people have done their defacing and have left the scene, the trace of their passage on the billboard remains. The trace can itself be erased. What cannot be salvaged and cannot be
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corralled by the authorities is the stir created by the act itself. That is the relevance of civil disobedience.

M.: All three of you highlight the importance of physical engagement...

I.F.: There also types of civil disobedience which do not involve a physical presence. Take the Internet for example, as we have seen with WikiLeaks. Rigid bounds cannot be used to define civil disobedience. It is true, though, that my own experience with disobedience has been one of a physical and living engagement. That is what makes it exhilarating – living in disobedience as an alternative, on a concrete plane and not on just an intellectual and theoretical plane. We live it in a concrete and collective way: I never act alone.

Y.G.: In contrast to other anti-advertising people, I have difficulty in carrying out actions on my own. There is a psychological and nervous tension that prevents me from carrying out the acts. Collective action allows you to be infected by the others and it can rub off on bystanders who can become activists in their turn. That is essential. The action itself and the stir it causes affect the public.

M.: In your works you use a more restrictive and precise definition of civil disobedience: specifically, the refusal to obey or be bound by a decree or law. You also make reference to personal experiences. Thoreau springs to mind, of course, as well as other gurus of disobedience, one of the leading ones being Alain Refalo, who wrote a first-person account in which he justifies his decision as springing from his conscience.

Sandra Laugier: The acts we have looked at are, in fact, often individual acts. Thoreau is undoubtedly the best example. His disobedience is individual but is also public. He articulates both dimensions: individualistic and collective. The individualistic dimension can, at least on the face of it, be incompatible with many types of political action. But its roots lie in an individualism that is in no way inconsistent with collective action. The reverse side of the coin is that groups involved in disobedience are very often founded on faith in the individual.

We have deliberately adopted a narrow definition of civil disobedience to identify the political and moral challenges that arise from it. Even though many actions do not comfortably fit into the definition we have adopted, they are connected with the political issues we analyze. We have therefore begun with a definition of civil disobedience as a refusal to be bound by a law or an order considered to be unjust. The refusal is aimed at drawing attention to this injustice to promote public debate and

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to challenge the law or order in question. It is this factor that differentiates civil disobedience from other forms of political action. We are interested in why such acts – which should in theory be acts of last resort – are so seductive. Why do people so often feel there is no other option available?

M.: In practice, people often opt immediately for this ultimate tactic because the ineffectiveness of other methods seems a foregone conclusion.

J.J.: If I saw disobedience as an act of last resort, it means I believed that present-day democracy is a moral system and that it works. But I believe this system is immoral and that it doesn’t work. Disobedience is only an act of last resort to the extent that I have no faith in the other solutions that are meant to precede it.

I.F.: If we start from the principle that disobedience is wrong until other means have failed, it means that we believe they could have worked and can still work. However, our starting point is that those other means cannot work.

J.J.: That is why the collective is important for us. I believe that successful civil disobedience actions are those that not only flout rules but are also a statement – at the time of the defiance, one presents an image, an experience, a community, a collective will which could present an alternative.

M.: Debunkers do it differently: you have come up with a global action campaign with specific demands. And your actions are aimed particularly at getting people charged and into court, so that witnesses’ testimony can raise moral issues and fuel debate in the press.

Y.G.: Sometimes the police do not show up at our actions even though, without fail, we inform them in advance. In such cases, debunkers voluntarily go to the nearest police station to get themselves arrested. When the police are present, all the militants immediately present their identity cards. We do not resist arrest; quite the opposite.

I.F.: Civil disobedience is a given; it is a sine qua non. This is important because it is traditionally treated as harmful for democracy, and that needs to be suppressed and fought against. Making it a requirement and acceptable are acts of defiance in themselves.

Y.G.: Our aim is to leverage public opinion. François Vaillant, one of the founders of the “debunkers,” taught us that. Our demands are precise, restricted, and attainable: we demand that billboards be limited to posters of 50 cm by 70 cm. For this stand we are tugged this way and that by the militants as well as by those of a libertarian bent. The former call us damnable reformers while, from the other side, the president of the French
association for billboard advertising told one of us publicly that we were out to get rid of billboards. Our program naturally goes far beyond this one demand.

M.: This illustrates one of the paradoxes that civil disobedience raises and is central to the works of Sandra Laugier and Albert Ogien: disobedience has a deeply individual dimension (particularly in accepting the consequences of a fine or prison), but it harbors within itself new forms of collective action.

I.F.: This is true, and the group dimension is inherent in the risks we take: personally, I would be frightened of taking such actions on my own. But that’s not the only factor. The group’s choice arises from living the experience of solidarity that makes it possible. That is such a rich experience that I would hate to do without it. Disobedience is not just defiance. It is a preemptive political statement. In my vision of political alternatives, the collective is central. One of the most attractive aspects of collectives engaged in direct action and civil disobedience is to feel the togetherness that harbors within itself a society organized around a way of thinking and a theory of the group.

Y.G.: For me, it’s also connected with the feeling that the public at large is a huge reservoir of political power and energy. It’s doubtless trite to put it like this, but it’s something that is present, almost palpably, during protests. If you act with legitimate purpose in tackling a political problem from what seems to us a legitimate viewpoint, and you set the project in motion, you can reach a whole range of people. There is a sense of extraordinary power in the collective, even when you’re not always able to mobilize enough people.

M.: A question frequently put to protesters is that competing notions of legitimacy seem to coexist concurrently and that procedures to address issues already exist.

S.L.: The question of legitimacy is absolutely central. It is critical for the initial motivation that drives individuals or a group of individuals to civil disobedience. They may believe that “traditional” democratic processes aren’t working: the citizen is not actively involved in those processes. You need to wait until the next elections once a government is installed. What is hard to accept is the disconnect between the man in the street who has no say, and the individuals who have been granted the political authority to run things. The idea that political authority is shared, that it is not the sole preserve of elected officials, is a frequent theme in movements engaged in civil disobedience. This statement may seem self-evident, but...
present-day democratic governments have undermined it by opening a divide between the political elite and the citizenry to whom they have to explain problems and how to solve them. Civil disobedience is thus morally justified.

Y.G.: I use the term “legitimate response” to characterize what we are doing together with the debunkers. That is what motivates what I do. It is a blend of self-defense and the right of reply. Self-defense is recognized by the penal code and the right of reply is recognized in press rights. We have more or less achieved recognition of “legitimate response” by the release of the eight militants in April 2010. The judge recognized their right to freedom of expression. More recently, in a court action won by François Vaillant in Rouen, even the public prosecutor referred to the idea of “legitimate response.” It’s a notion that’s taking off.

Y.G.: I believe you also need to take into account the notion of “intellectual risk.” When we say we’re in the right, we don’t know if it’s true. It’s a risk we take. When we claim our rights we take a gamble and see what it brings. We check it out afterwards.

M.: To demonstrate their legitimacy, some protesters stress the importance of keeping their faces uncovered and have refused to participate in clandestine actions.

Y.G.: Anti-advertising actions include all kinds: militants from the Résistance à l’Agression Publicitaire [Resistance to Aggressive Advertising] stick bits of paper on billboards with sticky tape and ensure that they don’t damage anything. Others attack en masse what I call urban obstacles (2m² billboards on sidewalks) and set fire to them. The debunkers do not indulge in civil disobedience actions as such. But they all share the same beliefs. Most of them engage in a wide range of actions, debunkers by day and clandestines by night.

Debunkers’ choices are first and foremost strategic. We want to give a show of strength and we are committed to nonviolent action. Yes, many groups engage in direct action and civil disobedience without being nonviolent. Nonviolence is therefore an important parameter.

M.: The issue is perhaps also what you are “attacking”: symbols, or more concrete elements.

J.J.: We often lend some weight to the symbolic dimension in acts of disobedience. This is important. But disobedience is not merely symbolic. When activists decided to climb the smokestack of a coal-fired power station, like the 114 who were arrested in 2009 near Nottingham before they could swing into action (because a police informant tipped off the authorities), they did not wish to make that a purely symbolic act. What they
really wanted was to stop carbon dioxide emissions. It could have prevented several million tonnes of CO₂ emissions.

The government’s response to this process was: “Stick to democratic processes, and, by the way, the government is well aware of global warming issues, as the Prime Minister’s statements clearly show.” And it went further. The prosecutor spoke not only about representative democracy, but about the media and asked why activists had not chosen Cheryl Cole, a famous singer and footballer’s wife, as an icon for their cause, instead of climbing power plant chimneys …

I.F.: The action cost £15,000 and the judge reckoned that for that price they would have been able to hire a celebrity to support their campaign rather than go for direct action. This shows how democracy can degenerate into a media spectacular.

J.J.: The judge also said that the activists had chosen direct action because it was a lot more fun than going to meetings, speaking to people, organizing debates, and so on. In other words, politics should be a serious matter, involving sacrifice and self-denial. But for us, having fun is essential.

Y.G.: Many people see civil disobedience as joyful and celebratory. Whenever I start defacing a billboard, I feel great; it’s a great moment.

M.: Civil disobedience thus means that political action and fun are compatible. This leads us to another issue we’ve not touched on until now: the importance of conversation in a democracy.

S.L.: This is central to Thoreau’s theory, as well as that of Stanley Cavell who took up Thoreau’s idea that democracy is a form of conversation which involves exchanges between individuals and society as a whole. Defiance is the basis of many acts of disobedience, starting with Thoreau’s refusal to pay taxes because he was opposed to the war with Mexico, right through to the campaign against the war in Iraq. I do not identify with it, with that war, with those policies, or with that law – “Not in our name!” This slogan certainly conveys not only the sense of injustice but also of despair at the lack of debate. To confront this, to recognize yourself in what is done and said, you need to be active both inside and outside the electoral process.

I.F.: The refusal to comply with an order, even though it may appear stupidly doomed, is in fact fundamental, since that order is one of the pillars of the imploding system.

Actions are all undertaken after close discussion within the groups. These are never decided in a vacuum. Once action starts, there is no stopping it. We begin by asking “What will the public think” and then we realize that the public does not exist. Then we try to imagine how other citizens will

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react and what they will say. Passionate discussions arise from this: what
does “society” really mean? “People?” The “public?” The “country?”

J.J.: We come back to the notion of self-confidence, which is essential to
the ability to engage in collective debate and then create forms that could
have a collective effect. Effective direct action offers this possibility. It
makes it possible to collectively create a world that has not existed before.

S.L.: Acts of civil disobedience
are a response to a feeling of dis-
possession – dispossessed of our
entitlements as citizens, even the
opportunity to work and express
oneself. The anger against pension
awards was like an inverted mir-
row: when those demonstrations
were at their height, the authori-
ties paid no attention to the demands. Éric Cantina’s campaign calling for
the withdrawal of funds from banks also represented a way of rejecting
dispossession: this was about taking possession of your own money. The
triumphant nature of the action sprang from the feeling that people were
retaking control of their lives, which conferred a terrific sense of power.

M.: For groups engaged in civil disobedience, and especially for the pro-
testers themselves, the realization that “traditional” means of challeng-
ing authority have failed is accompanied by a complete rejection of
political organizations, trade unions, and the like. On the other hand,
progressive political organizations are often themselves distrustful of
civil disobedience.

S.L.: There is still, within leftist organizations, a distrust of civil disobe-
dience which is two-faced and utterly paradoxical. On the one hand, they
say these actions are insignificant, they’re just individual actions. This
happens all the more where the disobedience presents no obvious dan-
ger (refusing to fill out academic evaluations in universities, for example)
but when job center staff refuse to report undocumented immigrants, the
challenge is more direct and clear. There is also a tendency to play down
the importance of acts of disobedience. At the same time, it’s said that
these same acts threaten democracy … It’s double-talk: how can an insig-
nificant act pose a danger to democracy?

Perhaps disobedience should not be seen as a threat to democracy,
but as evidence of the very lifeblood of democracy: the essence of civil
disobedience is the affirmation that every individual is competent to talk
about public issues.

I.F.: I am also critical of traditional organizations that give the impres-
sion of not wanting power to slip away from them. They want to super-
vise and control the critical moments of the movement: defining issues,
making strategic choices, and the movement’s outcomes.

Similarly, we tend to forget that, while there is no single hierarchical
structure, there is not a single horizontal form either. Some forms of “flat”
management seem liberating to me; others seem profoundly suffocating. This has been a recurring debate since the publication of Freeman’s article, which emphasizes that flat management does not mean an absence of structures, so it cannot be liberating.

S.L.: A truly democratic discussion is one where there is a consistent affirmation of equality. The model would be husband-wife quarrels in Hollywood movies as studied by Stanley Cavell in his book *À la recherche du Bonheur* [In Search of Happiness]. Taking the marital quarrels of couples in these films as a starting point, he goes on to considerations of democracy. He notes that the initial equality of couples’ interactions is only a surface one: underlying inequalities make appearances worthless. Equality needs to be constantly rebuilt especially through argument. You need to establish the legitimacy of your own voice.

If despair leads to the conclusion that civil disobedience is one of the only options, it is because political philosophy is not properly debated. We are always given the impression that we should not be too critical of democracy because fascism lurks in the wings. Democracy is made out to be a consensus and an agreement about what the rules should be, according to Rawls. We agree on initial principles, and once agreement is reached, there is no more room for discussion except on marginal details. But it is the principle itself that is problematic.

How do we challenge the model or template? I think you can only do it by using models based on conversation, therefore inspired by private life, because we lack public models for contesting this type of political idea which is now totally dominant.

J.J.: I also think it’s worthwhile to highlight the immense creativity of groups engaged in civil disobedience. Activist groups have found very creative and innovative methods of disobedience. We have found it much more difficult these days to find creative ways of launching and organizing debate. This is one of the works in progress. We have lost collective skills; we do not know how to be a group without having a hierarchy. We need coaching and creativity in these areas, as do civil disobedience groups with a tendency to keep coming up with forms of hierarchy. We need to find ways of discussing things that allow for disobedience without submitting to a hierarchy. What I find widespread in Anglo-Saxon collective systems is that, as far as decision making goes, they realize that to achieve consensus, you need a framework and rules, even though libertarians are far less keen on this. It is very structured, but it serves the democratic ideal.