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Contractarianism and Civil Disobedience

In recent years, there has been a resurgence of public interest in social justice, especially in the US. Through widespread protesting of various social ills such as racism, sexism, homophobia, and others, the general public's awareness of societal disparities has greatly increased– and met with stricter opposition from those in power. Some people, especially those in more privileged positions, have claimed that protests have taken their actions too far, doing things that may be considered disrespectful (kneeling during the national anthem) or even illegal (vandalizing storefronts and statues of pro-slavery leaders). Others, however, argue that these forms of protest are examples of civil disobedience.

The term civil disobedience was coined by Henry David Thoreau, who claimed that individuals have no obligation to obey governments that do not do them justice. In fact, he argued that everyone has a duty to overthrow such a system. The moral theory that can justify this is contractarianism, specifically John Rawls' theory of justice. Rawls claims that all societies include a social contract; an unspoken moral code for everyone to follow to establish order. He also introduces the concept of primary goods: liberty, rights, power of offices, income and wealth, and positions of responsibility. Therefore, according to Rawls' social contract theory, civil disobedience is morally acceptable in a society that does not distribute primary goods equally.

It has become apparent, especially now that more and more people are speaking out, that primary goods are not being evenly distributed by the US government. Women and people of color are vastly underrepresented in government (power of offices and positions of responsibility). For every dollar a man makes, a woman earns seventy-three cents; the average white family makes \$78K a year while the average Black family makes \$48K (wealth and income). The liberty and rights of many minorities are unstable; one insensitive comment from a powerful leader can jeopardize millions of livelihoods (ie. hate crimes against Asian Americans skyrocketed upon the former president blaming Covid on Chinese people). These primary goods are clearly not being given to citizens fairly. Therefore, by Rawls' social contract theory, the system is unjust.

Another principle of Rawls' contractarianism that furthers the case for civil disobedience is the veil of ignorance. This refers to a theoretical experiment in which all the factors that divide us are hidden from view to the arbiters of morality. Traits such as race, sex, gender identity, and ability become irrelevant to morality. Doing so makes the selection of principles of justice based on any superficial traits irrational and exposes our biases. As mentioned above, minorities are treated much differently than those in the majority; a man who treats fellow men fairly and equally may treat women as inferior. Many people's moral code applies only to those like themselves; social hierarchies play a role in morality. Because of this, the upholding moral system in the US is flawed, according to Rawls.

The role of consent, while sometimes used to disprove contractarianism, can be interpreted to support the theory and consequently civil disobedience. Those who oppose the theory claim that individuals have not explicitly consented to a social contract; most people have not agreed or disagreed with social norms— or at least expressed their opinions on them out loud.

However, it can be inferred that most societies *have* given consent to the social contract— though for many, only tacitly. A literal contract to sign in order to be a member of society would be next to impossible, but implied consent is the contract method of choice for most systems. Silence from the majority, lack of widespread opposition, and enjoying social benefits can perpetuate the system, whether or not it is just. By obeying the structure and norms given by an unfair system, citizens are consenting to an unjust social contract. The protest phrases “silence is violence” and “choosing neutrality is siding with the oppressor” exemplify this. Since complying with the system implies consent, civil disobedience is the correct way to make change, according to contractarianism.

While contractarianism’s viability can be debated, I agree with Rawls and Thoreau in this case. Not every single member of Western society has consented to the social contract, especially those in minority groups. However, the contract still stands and gravely punishes those who do not follow it, especially by law enforcement. To show dissatisfaction with it, we must break the rules of the contract to the extent we are able. An unjust system that forcefully initiates its members into the social contract must be retaliated against, especially by those to whom it does not serve.