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### The Duty to Disobey

Megan Baker

*Illinois Wesleyan University*

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# The Duty to Disobey

## **Abstract**

America is a country founded on revolution. In fact, our founding fathers valued this right to dissent so highly, that they wrote it into our first amendment. In recent years, America has come to fear the very same kind of civil disobedience on which the country was founded. Now, citizens are expected to balance their dissent within the parameters of law, and this is exactly the view of past Supreme Court Justice Abe Fortas. He stands for civil disobedience that follows the processes outlined in the Constitution and expects that dissenters accept their punishments when they step out of the law's bounds. Although some citizens do share this view, it is outdated and ineffective for the problems that are facing our country today. Political science professor and social activist Howard Zinn calls for civil disobedience based on morality and justice. Only civil disobedience, he claims, can awaken America to the despicable state of the country and make progress happen. Zinn's argument for civil disobedience focuses on justice for citizens and progressing the nation forward, while Fortas' idea of civil disobedience is confined by the rule of law and the symbolic agreement of obligation between a citizen and a state.

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The problems facing our country today are too deeply impressed on our society to be solved through legal means. Howard Zinn calls for civil disobedience because only by refusing to obey an unjust system can the state truly be awoken to the problems at hand. The facade of domestic tranquility, he claims, has muted the revolutionary spirit of Americans. In his book *Disobedience and Democracy: Nine Fallacies on Law and Order*, Zinn poses the question "How real is the social peace that harbors drug addiction, alcoholism, mental illness, crimes of violence, and all those thousands of instances of despair which will never be entered in the

hospital records or the police blotter because they have been safely contained by society's instruments of control?" (Zinn 1968). Fortas, on the other hand, claims that the right type of civil disobedience only disobeys unjust laws, and doesn't interfere with others. In his book *Concerning Dissent and Civil Disobedience*, Fortas states "The law violation is excused only if the law which is violated - only if *that law itself* is unconstitutional or invalid" (Fortas 1968). According to Fortas' standpoint, this means that if dissenters are arrested for or during their protest, they must accept, or at least tolerate the punishment. He uses the example of Martin Luther King, Jr. After ignoring an injunction against his mass demonstration in Birmingham, King went on to accept being arrested for his crime. Opposed to this notion is Zinn, who believes that if a protest is justified, it stays so. He claims that Martin Luther King should not have accepted his punishment for ignoring the injunction because he was fighting in the name of justice. Despite what Fortas might hope, the problems facing the country today aren't clearly sourced in specific laws. This is why Zinn argues for civil disobedience that gets to the root of the country's wrongdoings, even if it means disobeying reasonable laws. In his book, he states "Our most deep-rooted troubles are not represented by specific laws, but are so woven into American society that the only way to get at them is to attack the fabric at *any* vulnerable point" (Zinn 1968). He uses the example of a child being killed at a dangerous intersection. If a group of community mothers were to block that intersection in protest, they would be violating traffic laws and interfering with other citizens on the road, but they would be justified. Zinn points out in his book "How potent an effect can protest have if it stops dead in its tracks as soon as they very government it is criticizing decides against it?" (Zinn 1968).

Many citizens today feel a deep obligation to obey the laws. Indeed, Fortas argues in favor of this assumed obligation as an agreement between the state and the citizen. Dating back

to Plato's *Crito* and Socrates' stubborn acceptance of his death sentence, the idea that the citizen has an agreement with the state, under which they are obliged to obey the laws, and to accept punishments no matter if they are unjust. This type of unwavering respect for law and consent to the state is what gives a government legitimacy, and according to Fortas, is what maintains order. However, Zinn points out that it is civil disobedience which progresses and sustains a nation, because "democracy is not just the counting up of votes; it is the counting up of actions" (Zinn 1968). This civil disobedience is exemplified in the American Revolution and the Civil War, when citizens fighting for justice had to demand solutions. He claims, "If citizens maintain a universal respect for human rights, rather than for law, the society can change fast enough to meet the swift-moving expectations of people in this century" (Zinn 1968). The best country will be the one that hears the cries for justice, and rather than holding tight to lawful traditions, progresses forward with a new system. In fact, when he was on trial, it was Socrates who said "(...)it was my duty to face it out on the side of law and justice rather than support you, through fear or prison or death, in your wrong decision" (Plato 1993). Zinn argues that it becomes a citizen's duty to disobey unjust laws and protest a corrupt system in order to progress their country forward in the name of justice; the outdated forms of protest, as well as Fortas outdated admiration for rule of law, are no match for the problems ravaging our country today.

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