

Testimony prepared for the National Commission on
The Causes and Prevention of Violence—Oct. 13, 1968

**The theory
and practice
of
CIVIL
DISOBEDIENCE**



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"If any earthly institution or custom conflicts with God's will, it is your Christian duty to oppose it."

-Martin Luther King Jr.

AN APPROPRIATE AND HONORABLE WITNESS.

Testimony in connection with the theory and practice of civil disobedience is offered as part of a larger task of exposing the roots of violence in our society. The American Friends Service Committee feels qualified to speak on this subject because of our position as an agency of the Religious Society of Friends, which for more than 300 years has regarded civil disobedience as an honorable and appropriate witness for men to make under certain circumstances and with certain safeguards. This long tradition is further documented by the experience of a number of AFSC staff and committee members during the past 50 years. This experience has been in the form of personal witness undertaken through the compulsion of conscience rather than as a corporate witness of the AFSC itself, since the Committee as an organization has never to date acted in any manner contrary to law.

CIVIL DISOBEDIENCE AND LAW.

Two charges are today being leveled against civil disobedience: (1) that it breeds disrespect for law and (2) that it adds to an already dangerous amount of violence in the streets. Large numbers of people assert that there is a causal relationship between the increased incidence of these phenomena and the increased use of civil disobedience tactics by those who are protesting the Vietnam war or conditions of poverty or the denial of rights. They are calling for the suppression of this form of witness and for harsh punishment of those who employ it, with little recognition that the real problem to be dealt with—which is producing this protest—is the failure of government adequately to come to grips with continuing social injustice and the evils of war.

We acknowledge that an act of civil disobedience can breed disrespect for law and provoke an outbreak of violence, but we also know that it can be a powerful and worthy instrument for the achievement of justice and the liberation of the human spirit without producing either of these evil side effects. The problem is, therefore, one of analyzing the factors that produce the desirable rather than the undesirable results in order that men may be more discriminating in their judgments regarding it.

In the area of respect for law, one can point to the decade of the '20's and acknowledge a relationship between the civil disobedience of large numbers of Americans in defiance of the Volstead Act and the general climate of lawlessness that marked the period. Of more immediate, if less publicized, relevance, however, is the relationship in our own day between the rise in lawlessness and the open defiance of the rulings of the Supreme Court in the civil rights area. For years a great many Americans, including elected officials, have been flouting the established law of the land, and the United States government has taken little action to enforce the law and bring the offenders to account. Now the outcry, often led by these same elements, is for law and order, and the target is the lawlessness of the civilly disobedient black and the civilly disobedient students who have taken their protests to the streets because their grievances have gone unheard. We suggest that the use of civil disobedience is a fair subject for inquiry, but that the wrong target has been selected. We urge the Commission to explore the relationship between the rising disrespect for law and the defiance of many political leaders and agencies of government of the fundamental law of the land. This is to us a much more dangerous and important cause of the breakdown of law and order than the civil disobedience of black people and students who have been witnessing in the name of freedom and peace.

ADDING TO THE STATURE OF LAW.

In a more positive vein, however, we suggest that civil disobedience may have no relationship to increased disrespect for law, and indeed may actually add to its stature. Historically, for example, the massive civil disobedience and jailing of 30,000 Quakers in the 17th century is widely recognized to have contributed to the advancement of a just rule of law. Similarly, the American labor movement, which was born in civil disobedience and grew strong in its practice, has surely contributed to making law more worthy of respect by making it more truly just. Even more recently, the civil disobedience of freedom marchers in walking across a bridge at Selma, Alabama, although halted by clubs and tear gas, was instrumental in securing the passage of the landmark Civil Rights Act of 1964.

In our view, therefore, the great dissenters of history, from the Hebrew prophets to Martin Luther King, though driven to lawbreaking by their compulsion to widen the horizons of human freedom, have not been guilty of adding to lawlessness. On the contrary, we owe to them much of the credit for the fact that law is now more worthy of our respect.

CIVIL DISOBEDIENCE AND VIOLENCE.

If civil disobedience does not necessarily denigrate law, must it necessarily lead to violence? It often does, either because demonstrators are provocative or because police forces are inadequately trained to handle demonstrations. This latter situation often leads police or civilian authorities to over-react in a given crisis with the result that a previously peaceful witness is changed into a scene of bloody confrontation. It is, therefore, necessary to investigate each instance of violence accompanying civil disobedience to determine responsibility rather than to automatically blame the civilly disobedient for its outbreak.

The American Friends Service Committee is concerned that some of those who in recent months have figured prominently in civil disobedience have sought deliberately to provoke the police into the use of violence in the hope that the resulting turmoil will radicalize their youthful followers to carry forward the basic social revolution they see as necessary. We oppose resort to such disruption not only because of the violence it produces and the resentment it directs against an important instrument of dissent, but because we believe that in the present climate of opinion it plays into the hands of extremist forces on the right and invites a counter reaction of repression. Neither insurrection nor repression seem to us viable alternatives for a free society.

While the Committee, therefore, is concerned with the problem of provocation by demonstrators, it is much more concerned with the question of police conduct and official response, because we believe that in the great majority of cases where violent outbreaks have accompanied civil disobedience, the authorities rather than the demonstrators have been the responsible parties. For documentation, we cite the report of the Commission on Civil Disorders which points to over-reaction by police as a prime source of violence in situations of large scale public protest.

Despite the discouraging experience of recent years, however, we maintain that there need be no relationship between the incidence of civil disobedience and the incidence of violence. We have seen too many instances of peaceful civil disobedience to despair of discovering and applying the criteria that will assure that violence will be avoided. To cite two recent examples where

American Friends Service Committee personnel have been involved, we list the occasion of the arrest of the Reverend Ralph Abernathy and 240 of his followers in a confrontation with Washington police on June 24, 1968, and the civil disobedience of peaceful marchers in Chicago in a nonviolent protest against the violent suppression of human rights which had occurred on the previous day in the vicinity of the Democratic National Convention.

"IDEAL" CIVIL DISOBEDIENCE.

If neither lawlessness nor violence need be related to civil disobedience, what are the characteristics that such a witness must reflect if these unfortunate results are to be avoided? We suggest that two elements must be present in an act of civil disobedience, and a third ideally should be, if the action is not to endanger respect for law. The first essential element is that the purpose of the witness, while it may legitimately serve the particular interests of the individual or group involved, must go beyond those interests to a broad social purpose whose achievement will widen the horizons of human dignity and justice. This criterion rules out civil disobedience in the interest of purely selfish benefits such as the maintenance of an all-white school system at the expense of the education of the black child. It does not rule out civil disobedience by a group of welfare mothers on behalf of a more equitable and decent system of welfare. These mothers will have a selfish interest—indeed they may feel their very lives to be threatened by the continuation of present practices, but the effect of their action goes beyond their own cause to the cause of all who must be assured of dignity in the face of need for help, and is therefore a legitimate basis for civil disobedience.

The second essential dimension of civil disobedience is that it be regarded as an instrument to be used only after all reasonable legal channels for redress have been tried and exhausted. Our democratic system provides mechanisms for change and only when these mechanisms fail to operate does civil disobedience become permissible. This stricture must, however, be applied in a general, rather than a specific, context, especially in the civil rights area. That is to say, when organizations and groups who have been trying over a period of many years to obtain justice through the legislatures and the courts are finally driven by repeated failures to undertake civil disobedience, they cannot be condemned for not going through the whole exhaustive process in a particular instance. It is the general record of a patient effort to operate within the framework of law that is important, not the specific record of a particular instance.

A third characteristic of civil disobedience that is desirable is the avoidance by those who engage in it of any display of contempt and a willingness to accept without rancor the penalty that society imposes for infraction of its laws. This may be unreasonable to ask of participants whose action grows out of a long denial of justice and whose patience has reached the breaking point. We do not therefore condemn those instances of law breaking where this dimension is lacking, but regard it as an ideal whose approach will contribute to the maintenance of respect for law in the midst of disobedience to law.

In sum, the American Friends Service Committee believes that in instances where every reasonable effort to bring about needed change by legal means has been made and has failed, and where the issue at stake involves widening the horizons of human dignity or achieving greater justice for all, the use of civil disobedience to produce a change is justified and will not result in increased disrespect for law. If such a witness can be conducted in good spirit and under a nonviolent discipline, this result will be even more certain, but men are not saints and public judgments at this point must be tempered by sympathetic understanding of the circumstances.

PREVENTING VIOLENCE: COMMUNICATION AND CHANGE.

The problem of insuring the prevention of violence is more difficult. We have already touched on the importance of both sides avoiding unnecessary provocation, but restraint alone is an inadequate prescription to insure a peaceful witness. Other measures are necessary. There must, for example, be communication between the demonstrators and the authorities, and it is the responsibility of both to keep the lines open. So important is this factor that neither side is justified in failing to initiate contact because the other has not done so or because of imagined considerations of prestige. We have seen the threat of violence in many an ugly situation disappear in the wake of simple advance communication that clarifies intentions and silences rumors. A recent example involved a confrontation between an anti-draft group and Philadelphia police at the time of a visit to the city of Secretary Rusk. Rumors of provocation tactics were answered by the authorities with threats of repressive measures, and violence seemed a certainty. Fortunately, the atmosphere was not so tense as to prevent third parties from undertaking to communicate directly with the Police Commissioner and resistance leaders. The result was the replacing of rumor with fact, the achievement of understanding as to what was intended by both sides, and an ultimate demonstration which achieved its purpose of protest without the outbreak of any violence whatever.

Two other ways of preventing violence are the primary responsibility of the authorities. First, it is incumbent on top civilian leadership to display flexibility and openness to change. A contrary stance of rigidity is quickly seen by the resister as part and parcel of the institutionalized violence that always exists in an unjust status quo and adds to the sense of frustration and hopelessness that leads to violence. Second, the authorities must have a single standard in the response they make to the civilly disobedient. When there is an evident double standard, the resentment engendered is an open invitation to violence. Unfortunately, in our own experience, uniformity of response is often lacking. As Quakers acting alone, or in company with other religious or middle class groups, we have had little to complain about, but in those instances where our identity is hidden among the poor and the black, we have experienced the humiliation and the sense of outrage that come from being treated with harshness and contempt. All too often, if one is poor and runs afoul of the law, he is in trouble; if one is poor and black and does the same thing, he is in deep trouble; if one is poor and black and has a previous record, his chances of fair treatment are slim indeed. This unevenness of response is a major source of violence, and it is the responsibility of the authorities to see that it is eliminated.

The avoidance of violence in civil disobedience thus requires effort on the part of both those who make their witness and those who must enforce the law, but because those who witness usually feel themselves to be the victims of injustice, the heaviest responsibility falls on the authorities. Both sides must show patience, and both sides must initiate communication with the other to avoid the danger of unchecked rumor and inadequate information. The civilly disobedient must avoid deliberate provocation, and the authorities must avoid the over-reaction that more than any other factor has served in the past to escalate violence in protest demonstrations. In addition, the authorities have a special responsibility to display an attitude of openness to change and a determination to deal uniformly with all the participants in a witness. If all of these characteristics are present in an act of civil disobedience, there will not be violence; the absence of any increases the likelihood that it will occur.

Civil disobedience is not an easy instrument to employ wisely, but the American Friends Service Committee believes that where it is so employed, society has nothing to fear from it and much to be grateful for in its potential power. Without it, Americans would not have many of the root freedoms they now enjoy, for though it is popular to identify the triumphs of liberty with victories on the battlefield, many of our freedoms have in fact been won for us by the dissenter rather than by the warrior.