# Brooke’s Aff

## Framework

**[Resolution]** I affirm: Civil disobedience in a democracy is morally justified.

#### [Value] I value a just democracy meaning a social system that respects each person’s membership.

**[Criterion/Standard] Since everyone deserves to have an equal say** my criterion is promoting equal access to representation.

#### [RTP] Prefer this criterion, since:

**[J1]** First, people should have a say and the ability to voice their own opinions, without that, it diminishes the image of a just democracy.

**[J2]** Second, promoting equal access of the individual voice is a prerequisite to an equal society

#### [Dorling] Equality is the core idea in any society.

**Dorling**: Dorling, Danny [English social geographer and academic. Professor at the University of Oxford] “Why Equality Matters” *Sheffield,*November 2011. RP

**Equality matters** **because** human **beings** are creatures that **thrive in societies where we are treated more as equals** than as being greatly unequal in mental ability, sociability or any other kind of ability**. We work best,** behave best, play best **and think best when we are not laboring under the assumption that some of us are much better**, more deserving and so much more able **than others.** **We perform the worst**, are most atrocious in our conduct, are least relaxed and most unimaginative in outlook, **when we live under the weight of**great **inequalities** – and especially under the illusion that these are somehow warranted**.**

## Thesis and Advocacy

**[Thesis]**My thesis is that civil disobedience is morally justified because it allows society to speak out against injustices and restores freedoms of speech.

## Contention 1

**[C1]** My first contention is that civil disobedience is a catalyst for change promoting more representation and equality.

#### [Bowie & Simon 1] An unjust law can arise out of a just state or process, justifying the use of CD.

**Bowie & Simon 1:** Bowie, Norman E. [Professor Emeritus, University of Minnesota], and Robert L. Simon [Professor Emeritus of Philosophy, Hamilton College]. *The Individual and the Political Order: An Introduction to Social and Political Philosophy*, Third Edition. Oxford, England: Rowman & Littlefield Publishers, Inc., 1998. EM

Liberalism, including the version defended in this book, requires that civil disobedience be a prominent area of concern. After all, the core of liberal theory is that within a fair framework provided by the rules of justice and respect for the individual, decisions should be made de matically. **The state provides a fair framework for decision making, rather than enforcing a particular conception of the good life or promoting a specific form of community. In our version of this approach, democracy constrained by a theory of natural rights and by specific principles of justice provides at-best a just procedure for implementing rights claims and for adjudicating conflicts that arise among them. However, just as criminal trials sometimes set guilty people free or even convict innocent ones, so a state operating according to just procedures, including democratic voting, sometimes creates unjust results. With this thought in mind, we must now confront the question of whether or not citizens should break the law if they believe the law-is unjust or to protest injustice committed by the state.**

#### [Oduor] Further, Non-violent civil disobedience has been proven to work throughout history.

M.J. Oduor: Oduor, Rmj. [Research Methodology in Philosophy within an Interdisciplinary and Commercialised African Context] “Justifying Non-Violent Civil Disobedience within the Kenyan Context: A Moral Perspective” *Thought and Practice: A Journal of the Philosophical Association of Kenya* 2 Vol.3 No.1, June 2011.

[T]hroughout history, acts of non-violent civil disobedience have forced a reassessment of moral, social, political and economic parameters. The Boston Tea Party, the suffragette movement, the struggle for Indian immigrant rights in South Africa and the resistance to British rule in India (both led by Gandhi), the US civil rights movement led by Martin Luther King, Jr., Rosa Parks and others, American student sit-ins against the Vietnam War, and the resistance to apartheid in South Africa are all instances where non-violent civil disobedience proved to be an important mechanism for social change (Brownlee 2007; Zunes 1997, 1999). In the Kenyan context, [T]he non-violent campaign of Prof. Wangari Mathai from October 1989 forced the Ma regime to abandon its plans to build a sixty-storey sky-scraper in Nairobi’s Uhuru Park.Her protests, the government's response to them and the media coverage of the events all led foreign investors to withdraw from the project[.] in January 1990, barely three months after her protests began, leaving the Moi regime with no option except to abandon it. Similarly, the non- violent strategy of the Release Political Prisoners lobby, backed by the prisoners’ mothers and other women including Prof. Wangari Mathai in the early 1990s, eventually forced the Moi regime to release all political prisoners in 1993.

#### [Bowie & Simon 2] CD is an act of good citizenship, strengthening the Social Contract thus upholding democratic values central to negative rights

Bowie and Simon 2: Bowie, Norman E. [Professor Emeritus, University of Minnesota], and Robert L. Simon [Walcott-Bartlett Professor of Philosophy, Hamilton College]. *The Individual and the Political Order: An Introduction to Social and Political Philosophy*. Oxford, England: Rowman & Littlefield Publishers, Inc., 1998. CH

The democratic state constrained by general and particular principles of justice may be generally reliable but, nonetheless, imperfect in performing its function of implementing the natural rights claims of its citizens and of resolving disputes among rights claims. In such a state, justified acts of civil disobedience would not occur with great frequency. Nonetheless, [I]n a state where the achievement of justice is at best imperfect, we believe that civil disobedience [CD] has a central place. First, civil disobedience [it] gives [citizens] an opportunity for individual citizens to make a moral appeal to their fellow citizens when they believe that the institutions or practices of a state [laws] have violat[e] their rights[,]**.** Civil disobedience [and] is then a means for seeking a redress of grievances. The [CD’s] potential beneﬁts of civil disobedience do not [don’t] accrue solely to the civil disobedient[.], however. There are also substantial potential beneﬁts for the state[,] The civil disobedient may well be able to show that certain state actions are unjust. Hence, the disobedient will provid[ing] the catalyst for reform.Given that the purpose of the state is to provide justice, a civil disobedient who succeeds in pointing out an injustice in civil procedures is a good citizen and not an ordinary lawbreaker.

**[Impact]** Necessary change comes from the people and civil disobedience plays a major role in ensuring that the rights of citizens are protected, and that society remains fair with equal power and equal voice.

## Contention 2

#### [C2] My second contention is that CD is a check on the government, ensuring that people have a say.

#### [Bowie & Simon 3] CD gives the opportunity for individuals to check the state on unjust laws.

**Bowie & Simon 3:** Bowie, Norman E. [Professor Emeritus, University of Minnesota], and Robert L. Simon [Professor Emeritus of Philosophy, Hamilton College]. *The Individual and the Political Order: An Introduction to Social and Political Philosophy*, Third Edition. Oxford, England: Rowman & Littlefield Publishers, Inc., 1998. EM

The democratic state constrained by general and particular principles of justice may be generally reliable but, nonetheless, imperfect in performing its functions of implementing the natural rights claims of its citizens and of resolving disputes among right claims. In such a state, justified acts of civil disobedience would not occur with great frequency. Nonetheless, in a state where the achievement of justice is at best imperfect, we believe that civil disobedience has a central place. **First, civil disobedience gives an opportunity for individual citizens to make a moral appeal to their fellow citizens when they believe that the institutions or practices of a state have violated their rights.** Civil disobedience does not accrue solely to the civil disobedient, however. There are also substantial potential benefits for the state. The civil disobedient may well be able to show that certain state actions are unjust. **Hence, the disobedience will provide the catalyst for reform. Given that the purpose of the state is to provide justice, a civil disobedience who succeeds in pointing out an injustice in civil procedures is a good citizen and not an ordinary lawbreakers.** Even if the civil disobedience should fail in the attempt to convince the state that an injustice has been done, the disobedient still fills the role of good citizen.Because of such disobedience, what the state is forced to reexamine its policies and to be ever vigilant against situations where state activities do create injustice**. A state that is constantly challenged is more likely to be a just one. As rigid patterns of thought need to be challenged and reexamined if the best kinds of intellectual activity are to prevail, so must the patterns of the state be challenged if the ideal of justice is to be approached.** The civil disobedient serves as the analogue of an intellectual gadfly. In this sense, our view of civil disobedience is clearly in the tradition of Socrates. The civil disobedient is not an enemy of the state; rather the civil disobedience, as Socrates argues, is a good citizen.

#### [Zinn] The Government and law are not valuable by themselves; they are only means of protecting certain values.

**Zinn:** Zinn, Howard, [professor at Boston University, 1968] “Seven guidelines for civil disobedience.” Disobedience and Democracy: Nine Fallacies on Law and Order. pp. 119-122. JW

There is no social value to a general obedience to the law, any more than **there is value to a general disobedience to the law**. **Obedience to bad laws** as a way of inculcating some abstract subservience to “the rule of law” **can only encourage the already strong tendencies of citizens to bow to the power of authority, to desist from challenging the status quo.** **To exalt the rule of law as an absolute is the mark of totalitarianism**, and it is possible to have an atmosphere of totalitarianism in a society which has many of the attributes of democracy. **To urge the right of citizens to disobey unjust laws,** **and** the duty of citizens to disobey **dangerous laws, is of the very essence of democracy**, **which assumes that government and its laws are not sacred**, **but are instruments, serving certain ends: life, liberty, happiness.** The instruments are dispensable. The ends are not.

#### [King] Thus Civil disobedience allows minorities to have a say in the conditions that govern them. CD is uniquely key to reforming laws because it makes a more powerful statement.

**King:** King, Martin Luther, Jr. “Love, Law, and Civil Disobedience, by Martin Luther King, Jr.” *Love, Law, and Civil Disobedience, by Martin Luther King, Jr.* N.p., 16 Nov. 1961

It says something else. It says that it is as much a moral obligation to refuse to cooperate with evil as it is to cooperate with good. **Noncooperation with evil is as much a moral obligation as the cooperation with good.** So that the student movement is willing to stand up courageously on the idea of civil disobedience. Now I think this is the part of the student movement that is probably misunderstood more than anything else. And it is a difficult aspect, because on the one hand the students would say, and I would say, and all the people who believe in civil rights would say: Obey the Supreme Court’s decision of 1954 [Brown v. Board of Education] and at the same time, we would disobey certain laws that exist on the statutes of the South today. This brings in the whole question of how can you be logically consistent when you advocate obeying some laws and disobeying other laws. Well, I think one would have to see the whole meaning of this movement at this point by seeing that the students recognize that there are two types of laws. There are just laws and there are unjust laws. And they would be the first to say obey the just laws, they would be the first to say that **[M]en and women have a moral obligation to obey just and right laws.** And they would go on to say that we must see that there are unjust laws. Now the question comes into being, what is the difference, and who determines the difference, what is the difference between a just and an unjust law? Well, a just law is a law that squares with a moral law. It is a law that squares with that which is right, so that any law that uplifts human personality is a just law.Whereas that law which is out of harmony with the moral is a law which does not square with the moral law of the universe. It does not square with the law of God, so for that reason it is unjust, and any law that degrades the human personality is an unjust law. Well, somebody says that that does not mean anything to me; first, I don’t believe in these abstract things called moral laws, and I’m not too religious, so I don’t believe in the law of God; you have to get a little more concrete, and more practical. What do you mean when you say that a law is unjust, and a law is just? Well, I would go on to say in more concrete terms that **[A]n unjust law is a code** that the majority inflicts on the minority that is not binding on itself. So that this becomes difference made legal. Another thing that we can say is that an unjust law is a code **which the majority inflicts upon the minority, which that minority had no part in enacting or creating, because that minority had no** right to **vote** in many instances, so that the legislative bodies that made these laws were not democratically elected. Who could ever say that the legislative body of Mississippi was democratically elected, or the legislative body of Alabama was democratically elected, or the legislative body even of Georgia has been democratically elected, when there are people in Terrell County and in other counties, because of the color of their skin, who cannot vote? They confront reprisals and threats and all of that; so that an unjust law is a law that individuals did not have a part in creating or enacting because they were denied the right to vote. Now by the same token, a just law would be just the opposite. **A just law** becomes saneness made legal. It **is a code that the majority, who happen to believe in that code, compel the minority, who don’t believe in it, to follow[.]**, because they are willing to follow it themselves, so it is saneness made legal. Therefore the individuals who stand up on the basis of civil disobedience realize that they are following something that says that there are just laws and there are unjust laws. Now, they are not anarchists. They believe that there are laws which must be followed; they do not seek to defy the law, they do not seek to evade the law. For many individuals who would call themselves segregationists and who would hold on to segregation at any cost seek to defy the law, they seek to evade the law, and their process can lead on into anarchy. They seek in the final analysis to follow a way of uncivil disobedience, not civil disobedience. **And I submit that the individual who disobeys the law, whose conscience tells him it is unjust and who is willing to accept the penalty by staying in jail until that law is altered, is expressing at the moment the very highest respect for law.**

#### [Markovits] Since legal means cannot guarantee success every time, civil disobedience is an alternative to reforming a law. The existence of legal means doesn’t implicate that CD is immoral, just that there are multiple ways to change a law.

**Markovits:** Markovits, Daniel. “Democratic Disobedience.” *Yale Law Journal*, Vol. 114, No. 8, Jun. 2005. CH

**A citizen who faces such a situation may wish to reintroduce into the political agenda preferences and ideals that have been excluded by the collective decision whose ongoing democratic authority[.] and current democratic appeal she doubts.** (The citizen probably has these preferences and affirms these ideals herself, although this is not necessary, and she may pursue a renewed sovereign engagement in spite of being content with the status quo, simply for the sake of democratic values.) But in such cases, the inertial practices and institutions that usually promote democratic sovereignty inevitably come to impede it instead-they create democratic deficits. The citizen therefore has good democratic reasons to resist these inertial institutions-to overcome the democratic deficits. Of course, the political processes of democratic states generally (and perhaps necessarily) recognize officially sanctioned mechanisms for collective course changing and revision-including, if the argument of the previous Part is correct, the processes of judicial review.84 A citizen who perceives a democratic deficit may promote sovereign reengagement with an issue through these orderly political processes, that is, by means that conform to the law. But these approved mechanisms for triggering sovereign reengagements are not always adequate to correct the democratic deficits that arise from time to time. **Indeed, it is impossible for a democratic system to anticipate all the democratic deficits it generates and to develop officially sanctioned routes of protest that perfectly counterbalance all its inertial institutions.** The earlier analogy to the individual will illuminates this point. A moment's introspection reveals that the exclusionary force of our intentions is not and indeed could not possibly be always perfectly counterbalanced by the revisionary mechanisms that we cultivate. No matter how carefully we calibrate our intentions' exclusionary force, and no matter how sensitively we pursue revisionary habits, the nonreconsideration on which our practical rationality depends on occasion so entrenches our intentions that we will benefit from being forced to reconsider them by means that go beyond the reconsiderative methods to which we have antecedently committed ourselves. We simply cannot help but sometimes become complacent, and we will then benefit from being shocked out of our complacency by unanticipated, and initially unwelcome, means. Moreover, these inevitable imbalances between inertial forces and cultivated revisionary mechanisms are only more pronounced in the case of the sovereign will than in the case of the individual will. The practices necessary for sustaining the widespread sense of individual authorship of collective decisions on which democratic sovereignty depends involve much more inertia than the exclusionary properties of intentions on which individual practical rationality depends. **Accordingly, the legally sanctioned means of protest that a political system incorporates are inevitably less capable of correcting the full range of democratic deficits that arise in that system than the revisionary habits of persons are of correcting the defects in rationality that arise from time to time in individual wills.** The benefit to the democratic sovereign of the unanticipated and unwelcome shocks associated with disobedient protests tend, therefore, to exceed the benefit to the individual will of being shocked out of its complacency. **None of this denies that democratic systems should invite rather than discourage legal protest, just as individual persons should be flexible rather than rigid.** But the mechanisms needed to generate a democratically authoritative sovereign inevitably (and even more markedly than in the case of individual intentions) also create democratic deficits whose cures no democratic system can incorporate.

UNDERVIEW:

As an underview, the affirmative only needs to justify CD as an option in a democracy, my burden is not to show that people are obligated to use it or that it is a better option than legal means of protest, thus negative arguments showing that CD is not the best form of protest do not negate, to win the round, I only need to show that CD is a tool in the toolbox of options citizens have a right to use. That means, so long as CD does not actively break moral obligations, we affirm. Further, even if CD is not successful or gains negative attention, those are not reasons to negate. We can still take morally justified actions that others don’t approve of. For example, when Martin Luther King led marches to protest civil rights violations, many in the media demonized him and many members of the public became violent. That is a reason those responses to CD are not morally justified but not a reason CD itself is not. My burden as the aff is to show that the aff itself is justified regardless of whether it succeeds or fails and regardless of whether people agree with it. We don’t determine whether an action is morally justified based on a popularity contest, we look instead at whether it upholds basic rights.