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Word count: 1460

Civil Disobedience and The Rule of Law:
How “Valuable” Lawbreaking Can Progress Society

"If a plant cannot live according to its nature, it dies; and so a man," declared Henry David Thoreau in regards to civil disobedience in the mid 19th century. The idea of civil disobedience has been at the forefront of civil law for generations, and democratic global societies are nothing short of fervent when it comes to this concept. The main goal of civil disobedience is to demonstrate the unjust nature of a particular law and to move society toward changing that law for the better. This is not to assume that the entire legal system is unjust, but a particular policy or bill that has been passed. From a traditional standpoint, one would say that civil disobedience undermines the rule of law; However, the reality is quite the opposite. There is an undeniable correlation between civil disobedience and The Rule of Law when it comes to striking down unjust, discriminatory laws. The Rule of Law in its most simple definition being that all persons, institutions, and entities are accountable to laws that are: publicly promulgated, equally enforced, and independently adjudicated. Civil disobedience allows a nation's citizens to be granted justice, ensures that their rights and freedoms as granted by the Canadian Charter remain protected, and progress as an ever-changing society.

When civilians go against a specific law that they view as unjust, social rights movements are born. Civil disobedience can strengthen The Rule of Law by leading to the corrections of unfair or seriously wrong laws before further discrimination can occur. Many social rights movements are created to protest against specific laws or actions that occur under the law. A recent and relevant example of this is the "Black Lives Matter" movement, the "Me Too" movement, and "The Women's March". In each of these examples, individuals both nationally and globally participated in various forms of civil disobedience that led to changing laws or behavioural habits within the legal system that actively discriminated against a specific demographic or group of people (Lebron #76). During these times, there were laws in place that

deliberately discriminated toward certain individuals while actively benefiting others under the law. A more specific example is that women were legally not allowed to vote until 1918 due to the Person's case (Lahey #404). This, by nature, is problematic and goes against the Charter in many ways, however, was only amended due to the demand for justice that occurred through the noncooperation of the "famous five". Although there will always be critics of civil disobedience, engaging with these movements leads to substantial change and justice while creating a larger community of understanding within the legal system. Another crucial example of young people engaging in civil disobedience as a "call to action" to elected officials is the "Fridays for Future" climate strikes (Thackeray #243). Students of all ages engaged in resistance by not attending school and instead choosing to spend their Friday striking as a result of feeling unsatisfied with the lack of environmental related action from their government. This is a prime example of how acts of civil unrest forces the government and lawmakers alike to reflect and correct previously mishandled situations (Thackeray #248). With these acts of civil disobedience, the justice system was reminded to reflect on the rule of law and what it entails. Elected officials were also reminded of the crucial relationship between the way laws are enforced and the impact this has upon people, as well as the importance of equality under the law. Without civil disobedience or the social emphasis on improving individual and collective rights, the legal system would remain flawed indefinitely.

The "Equality Rights" section under the Canadian Charter of Rights and Freedoms states that "all persons, entities, or institutions must be held accountable under equally enforced laws", and therefore has led to a heavy emphasis on laws being non-discriminatory by specific definitions in the justice system (Canadian Charter of Rights and Freedoms). Civil disobedience and social justice movements take this into consideration and fight for equality rights to be

protected under law. The sole purpose of civil disobedience is to fight for the protection of equality as outlined in the Canadian Charter and in several other official documents (Canadian Charter of Rights and Freedoms). Section 52(1) of the Constitution Act, 1982 states that any law that is inconsistent with the provisions of the Constitution is "of no force or effect" (Koshan). Statutes which conflict with the Constitution are essentially invalid and technically do not become law. This particular section of the Constitution Act has been outlined incontestably with the main goal being to deter governments from passing unjust or harmful laws (Koshan). This further proves that social justice movements and protests are not technically classified as forms of civil disobedience in many circumstances, as long as they remain inline with the fundamental freedoms under the Charter (Fudge and Jensen #100). This means that civil disobedience can be legally justified as a reflection of certain radical laws that are not legitimate as they are not supported by the Charter of Rights and Freedoms. As granted by the Charter's equality rights, everyone is equal and has the right to equal protection and equal benefit of the law without discrimination (Canadian Charter of Rights and Freedoms). Those who participate in civil disobedience with reasonable cause to fight for equal distribution of equal rights are protected by the Charter and are entitled to proper representation under the Rule of Law.

Civil disobedience also can strengthen the Rule of Law by allowing a society's judicial system to grow and change. A society's laws reflect the core values and morals of that nation, and civil disobedience allows these laws to be truly reflective on what the people need. It is nearly inevitable that there will in fact be laws that are unjust or discriminatory however, social justice movements allow the repeal of unjust laws. The Rule of Law is fluid, and it can be changed as a result of civil disobedience. This is important to Canada's democracy and to Canada's legacy as a dynamic and forward looking society (Peerenboom #70). As a progressive

nation, and as a state who values multiculturalism, and diversity, it is necessary for civil disobedience to maintain the fluidity of the Rule of Law. Although the Rule of Law is a foundational part of Canada's justice system, it is malleable and subject to change as society develops. The Rule of Law "guarantees to the citizens and residents of the country a stable, predictable, and ordered society in which to conduct their affairs", this protects individuals from arbitrary state action (Billingsley). As times change and the world becomes more modern and intricate, it is important that Canada's legal system emulates this. Civil disobedience is the true way for the people of a state to give their unsolicited opinion and demonstrate their values to the legal system. It is essential to modernize the Rule of Law and maintain current social standards and equal practices. For the citizens of a country to respect the law, their judicial and governmental systems must seem legitimate to them and accurately portray their modern concerns as expressed by engaging in civil disobedience (Peerenboom #71). A new wave of civil disobedience in the COVID-19 era that has had a heavy impact on the Rule of Law has been "digital disobedience" (Scheurman #302). This refers to the new wave of online and social media activism that has been seen in the past year as an effort to hold governments accountable and demand social justice. Digital disobedience as a form of civil disobedience has been able to change the Rule of Law for the better and allow governments to adapt their judicial decisions to modern concerns (Scheurman #310). Without these acts of unrest, the Rule of Law would not accurately portray the values of Canadians.

Civil disobedience is necessary to strengthen the Rule of Law by leading to the correction of unjust or seriously wrong laws and reforming the justice system in the process in addition to allowing a nation's citizens to find justice under the law through social justice movements and protests. The power remains with the people to find a community fighting for equality. Civil

disobedience ensures that peoples' rights and freedoms as granted by the Canadian Charter remain protected under the Rule of Law by allowing them to publicly dispute any discriminatory law and demand reformation, and finally, civil disobedience encourages Canada to progress as an ever-changing society in a modern world, and plays an essential role in Canadian justice system to remain its classification a forward moving country. As the world progresses, we as individuals begin to see that a nation with its citizens' voices silenced is a nation that will continue to fall behind in history.

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