

Paper title:

**The Opposition to Israel's Withdrawal from the Gaza Strip: Legitimizing Civil Disobedience
from Both Sides of the Political Map**

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Summary of the assignment:

7-12 pages essay that relates to the following theme of the course:

Higher laws and outlaws: When, if ever, may a good person disobey a command of the state? Is such disobedience ever authorized by “higher laws”? If so, how do we know what those higher laws are: where do we find them, how do we read them, and how do we talk to others about them?

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Aya Shoshan

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Sides of the Political Map

The Left Faces an Unexpected Dilemma

As an Israeli leftist, I shared the left's excitement when, in February 2004, Prime Minister Sharon announced his plan to withdraw from the Gaza strip. Even though this wasn't the peace agreement that the left craved for, no one could ignore the historical importance of this decision. The dominant view among the left was that after 38 years of occupation of Palestinian territories, Israel was finally acknowledging that the occupation was destructive. The withdrawal was also a precedent for evacuating other Israeli settlements. If the plan proved feasible, it would make way for other evacuations in the future. Finally, that the decision to withdraw had been made by a right-wing government meant that the understanding of the need to withdraw had crossed political boundaries and become a consensus.

In the midst of this enthusiasm, disturbing voices of resistance appeared from the far right. Aside from expected protests against the withdrawal, some right-wing leaders and activists called for more severe steps, such as refusing to serve in the military and physically resisting the evacuation of settlements. These statements outraged the left. How dare the settlers, who have been nurtured by the state for years, who have taken pride in being patriotic and loyal to the state, who have dragged Israel into countless unnecessary confrontations with the Palestinians, how dare they turn their back on the law and the government now? There was an immense urge among the left to denounce the right resistance, and many left-wing activists and thinkers joined forces to do so. But some of them, particularly the more radical ones, were confronted with an apparent contradiction - how could they condemn the right's refusal to cooperate with the withdrawal while supporting the traditional left-wing

refusal to serve in the military? Could there be moral or political grounds to reject the right's disobedience while simultaneously accepting the left's? The section of the left that has so far supported the left disobedience¹ was now required to answer these questions.

A Brief Background

In June 2004, the right-wing government headed by Prime Minister Sharon approved a unilateral plan to withdraw all Israeli forces from the Gaza strip and to dismantle all Israeli settlements there. The Israeli settlements in the Gaza strip appeared soon after Israel occupied the area in 1967. After the occupation, the Israeli public held conflicting views regarding the status of the Gaza strip. While many considered it an inseparable part of the Jewish homeland, others regarded it as an occupied territory that had to be given back. The government adopted the view that Gaza was a part of Israel, and encouraged Israeli citizens to settle there, providing them with financial incentives. According to the IDF official website, by 2005 there were 19 Israeli settlements in the Gaza strip, populated by 8,000 Israelis. The government's plan to withdraw from Gaza in 2005 incited strong opposition from the right. Mass demonstrations took place in Tel Aviv, Jerusalem and other major cities, orange ribbons were hung on cars and balconies as a sign of identification with the settlers, and right-wing parties attempted to block the plan in the parliament. But some more radical right-wing groups found these actions insufficient. These groups organized illegal infiltration of activists into the Gaza strip to bolster the settlers' resistance, they encouraged settlers to remain in their homes and not to cooperate with the military, and they called soldiers to refuse to take part in the evacuation. Despite this opposition, the plan was carried out in August 2005, without causing a single death or serious injury.

¹ It is important to note that only a small portion of the left supports the left refusal to serve in the military. The majority believes that even though occupation is wrong, serving in the military is a civic duty that must be fulfilled.

Arguing Against the Right

Confronted with the apparent contradiction between the simultaneous urges to support the left's disobedience and reject the right's, left wing intellectuals offered ways to distinguish between the two. Some argued that the right's resistance resembled a rebellion more than an act of personal conscience, because it was instructed by authoritative figures rather than motivated by individual beliefs. This argument refers to incidents in which rabbis instructed their followers to oppose the withdrawal by disobeying the law. An example of this is the public statement by Rabbi Avraham Shapira, one of the principle leaders of the religious Zionist movement, together with a group called "Rabbis for the land of Israel." Shapira said that the evacuation of Jewish settlements "is a severe violation of the Torah and is equivalent to desecrating Sabbath or eating pork" (qtd in Vise). To assert Shapira's view, another group of 60 major rabbis published a letter calling soldiers to "refuse to take part in the uprooting of settlements", and stating that "Jews are forbidden to take part in the dismantling of any settlement or Jewish grasp of the land of Israel." (qtd in Rahat). In both these incidents, the rabbis did not address their followers' personal sense of justice, but rather commanded them to disobey the law. David Zonshein, chairman of the political left movement "The Courage to Refuse," argues that the religious public regards the rabbis as authorities whose orders must be obeyed. "This is a true threat to democracy, which is based on the freedom of conscience of each citizen," he says. Prof. Kimmerling agrees. According to him, the religious education in Israel encourages blind obedience to rabbis and lack of "personal autonomy and independent thinking." He claims that in these circumstances, "disobedience is collectively forced on the masses, and turns into clear and open sedition." For both Zonshein and Kimmerling, the rabbis' call for disobedience is an attempt to rebel. Therefore, Zonshein and Kimmerling believe that unlike the left personal disobedience, the right disobedience is not

legitimate within a democratic society.

As Zonshein and Kimmerling point out, the rabbis' rulings differ significantly from the left disobedience. I accept their claim that the rabbis' ruling is illegitimate because it is not the kind of honest and conscious disobedience that a democratic society should tolerate. But the right manifested many other forms of disobedience besides the rabbis' statements. Some calls for disobedience were made by civil leaders who addressed the public personal sense of justice. Pinchas Velershtein, head of Benyamin County²², published a public letter to the residents of his county in which he described the evacuation law as an immoral, discriminatory crime against Jews. Velershtein encouraged his public to go to Gaza and resist the evacuation, and to be willing to go to prison for this action. Velershtein is not a religious authority, he did not mention a single religious justification for breaking the law in his letter; nor did he rely on any rabbis' ruling. Instead, he argued that a law violates universal justice when it selectively ignores human rights of Jews by forcing them out of their homes. It would be difficult to claim that Velershtein's call for civil disobedience is an act of rebellion that relies on blind obedience to religious authorities. Like Velershtein, there were many other community leaders who called for a non-violent resistance to the evacuation based on the claim that the evacuation was unjust.

But some left intellectuals reject this form of civil disobedience as well. They claim that the moral basis for the right refusal is fundamentally wrong, because it contradicts values of democracy and peace (Kimmerling, Zonshein and Triger). Kimmerling argues that the settlers aspire to preserve the undemocratic occupation of the Palestinian territories, which results in Israel's control over the lives of millions of Palestinians without giving them any rights. This situation, Kimmerling says, cannot be justified by any democratic means even if it were supported by an unquestionable majority of Israelis. Zonshein supports this view as well. According to him, the settlers fight to maintain control over a land

²² Benyamin County is a region in the west bank that Israel occupied in 1967. The settlers' leadership in the west bank joined the struggle against the withdrawal from Gaza, claiming that they share the same fate as the settlers in Gaza.

that was never annexed by Israel. “By doing so,” Zonshein says, “they create an apartheid state in which a Jewish minority has control over an Arab majority deprived of basic civil rights.” Triger calls the settlers disobedience “a form of Jewish Jihad that has nothing to do with democracy.” These arguments suggest that the settlers themselves do not act according to democratic principles, and do not respect the Palestinians' civil rights. Their presence in the occupied territories results in curfews over Palestinian towns, segregated roads, unequal distribution of resources and severe restrictions on the mobility of Palestinians. The left argues that by evacuating the settlers from the territories, the injustice imposed on the Palestinians would come to an end. In light of these arguments, it seems absurd that Velershtein complains about an intolerable violation of the human rights of settlers while he and the public he represents cause daily violation of Palestinian human rights.

The crux of the dispute between Velershtein and the left is their different view of universal justice. While the left relies on a view of justice that rejects any form of occupation and strives for a race-free democracy, the settlers believe that justice consists of a Jewish state throughout all of historical Palestine, at the expense, if necessary, of Palestinian human rights. Could the difference in moral perceptions between the right and the left justify the left disobedience over the right? In other words, could the left justify its own disobedience and denounce the right's disobedience based on the view of universal justice it holds? I believe that there are two ways to address this question. The first is to argue that justice is a social and cultural construction that has no objective justification. According to this view, the left has no moral superiority over the right, and so both the right and the left disobedience are equally justified. The second option, which the left intellectuals endorse, is to claim that universal justice exists, and that the left best represents it. In this case, we conclude that the right-wing disobedience is illegitimate because it contradicts universal principles of justice.

Since the purpose of this essay is not to discuss the theoretical justification for universal justice, let us provisionally accept the left claim that the right values are immoral. Even though this assumption

is sufficient to conclude that the right-wing disobedience is illegitimate, I believe that there are other considerations that the left should make before determining whether the right disobedience is truly unjustified. Civil disobedience has important implication on the conduct of democracy. When the left rejects the legitimacy of the right's disobedience on the sole basis that the right holds immoral views, it ignores the implications that civil disobedience has on democracy. If the left strives to create a true democracy, it should endorse a more utilitarian point of view on the right's disobedience, and consider whether the right's disobedience benefits democracy. If the right's disobedience benefits democracy more than it harms it, then the left should tolerate it despite the fact that it relies on immoral values. In order to examine whether the right disobedience benefits democracy, we should first examine civil disobedience and its justification in a democracy.

John Rawls: A Comprehensive Definition and Justification for Civil Disobedience

John Rawls, a modern day political philosopher, wrote about the role of civil disobedience in a democracy. According to him, true civil disobedience is not only a civil right but also an effective instrument in strengthening and stabilizing democracy. It serves to correct narrow injustices that occur within a system that is almost just, perfecting it to make it even more just (383). I believe that the leftists who support the left disobedience would agree with Rawls that true civil disobedience benefits democracy. But does the right's disobedience qualify as true civil disobedience? In other words, does any kind of a political violation of the law qualify as true civil disobedience? Rawls thinks otherwise. He lays out a definition for true civil disobedience, and the conditions that make it justified:

“[Civil Disobedience is a] public, non violent conscientious act contrary to law usually done with the aim of bringing about a change in the law or policies of the government. By acting in

this way one addresses the sense of justice of the majority of the community and declares that in one's considered opinion the principles of social cooperation among free and equal men are not being respected" (Rawls 364)

In Rawls' view, civil disobedience can only take place in a society that is close to being just (363). This means that the parties practicing civil disobedience act against a narrow aspect of the law, and do not intend to overthrow the entire system of government. Assuming this is the case, Rawls' definition suggests three main principles for civil disobedience: first, it should be a public violation of the law, meaning that the illegal act should be declared openly rather than practiced in private. Second, it should be non-violent, and third, it should derive from an individual's personal conscience based on principles of freedom and equality.

If we accept this definition, it's easy to see why the rabbis' calls for disobedience do not qualify as civil disobedience. The rabbis do not rely on the personal, independent conscience of their followers. They also don't derive their justification from principles of freedom and equality, but rather from religious dogma. These distinctions show that the rabbis did not perform true civil disobedience that would be justified within a democracy. But what about the sort of disobedience in Velershtein's letter? According to Velershtein's personal view, he is addressing the public sense of justice to protest what he believes to be a wild violation of the settlers' freedom. In addition, he expresses willingness to bear the punishment for his actions, showing that he respects the existing form of government and wishes to protest only against a specific unjust law. So Velershtein's letter is a call for a public, non-violent violation of the law, it addresses the majority's sense of justice, and it protests against a violation of freedom. It seems that Velershtein's letter fits Rawls' definition of civil disobedience.

According to Rawls, fulfilling the definition of civil disobedience is not enough to make disobedience justified. In order for an act of disobedience to be justified, three additional conditions

should be met (372-376). The first one is that the act should be aimed only against violations of the most fundamental principles of justice. In Rawls' view, these principles consist of equal liberty and fair equality of opportunity. Do Velershtein and others like him fulfill this condition? It seems that the answer to this question is controversial. While Velershtein clearly believes that forcing the settlers out of their homes is a violation of their freedom, the left might argue that the mere presence of the settlers in the occupied territories is a violation of the Palestinians' liberties. Rawls does not mention a situation in which there isn't a clear consensus on whether the law violates his principles of justice, as in this case. Nevertheless, I believe that both sides would agree that forcing people out of their homes is a violation of their freedom, even if it is done for a better cause. So it seems that Velershtein, as well as settlers and soldiers who decided to oppose the evacuation based on their own conscience, fulfill Rawls' first condition for justified civil disobedience.

Rawls' second condition is that civil disobedience should only be used after legal means have been attempted. Rawls notes that this does not mean that legal means should be exhausted before civil disobedience can be used, since in some cases there is not enough time to wait for the legal system to resolve the injustice, or because the legal means are simply ineffective. Still, Rawls says, legal means should be attempted before resulting to civil disobedience. In the case of the withdrawal from Gaza, the right attempted almost all possible legal means to prevent the withdrawal. It attempted to block the decision in the parliament, it organized mass demonstrations, and it published hundreds of ads and opinion columns in the newspapers. In fact, the right called for civil disobedience only during the evacuation itself, in other words, when legal means had failed to prevent the withdrawal. For this reason, it seems that the right's disobedience fulfills Rawls' second condition for justified civil disobedience.

Rawls' third condition has little relevance to our topic, and so I will only mention it briefly. Rawls is concerned that the structure of society might be destabilized if too many minorities decided to

practice civil disobedience at the same time. For this reason, Rawls suggests that some practical arrangement should be made between the minorities to make sure that society's structure is not jeopardized. In our case, as long as the right's disobedience remains non-violent and focuses on resisting the withdrawal, there is no reason to believe it threatened the structure of government in Israel.

According to Rawls, when a violation of the law fulfills the definition of civil disobedience as well as the three conditions that make the disobedience justified, it becomes a civil right as well as an efficient instrument in strengthening democracy. Since Velershtein's call for disobedience and others like it fulfill Rawls' conditions, they become a civil right and an instrument in strengthening democracy.

The Right to Practice Civil Disobedience Versus Universal Justice

I have tried to show that the right's disobedience, even though based on immoral values, fulfills Rawls' conditions for justified civil disobedience and benefits democracy. Lev Greenberg, a political sociologist who supports the left disobedience, reaches a similar conclusion. He asserts that any citizen has the right to disobey a law he considers unjust in order to challenge the authorities. Even though Greenberg opposes the occupation and supports the left refusal to serve in the military, he accepts the right of soldiers to refuse to take part in the withdrawal. For him, it is more important to maintain the basic democratic right of civil disobedience than to reject civil disobedience because it represents immoral values. I believe that Greenberg and others like him overcame the immediate urge to reject the right's disobedience, and arrived at a more measured conclusion that takes into account democratic considerations.

In addition to Rawls' justification, there are other reasons why a democratic society should

tolerate the right's civil disobedience. By tolerating civil disobedience from all sides of the political map, society strengthens democratic values such as pluralism and equal opportunities at gaining political influence. In a democracy, any party has the right to express its political views and to use the same political means in order to gain support. If a society accepts civil disobedience of one party, it cannot deprive the other party's right to use the same means. In addition, in our case, if Israel accepts the left disobedience and rejects the right disobedience, the right might easily lose faith in the system and reject it as a whole. This leads to the conclusion that rejecting the right's civil disobedience would result in a severe damage to basic principles of democracy. I believe that even if the left thinks that the right's disobedience is based on immoral principles, it should accept the right's legitimacy to practice civil disobedience in order to strengthen democracy.

Willing to Pay the Price

Realizing that the right's disobedience benefits democracy was not an easy task for me, nor for others in the left. To accept this conclusion, the left has to overcome its instinct to reject the right's disobedience, a disobedience that the left considers immoral and hypocritical. One way for me to overcome this instinct is to consider the personal experience of the individuals who decided to resist the evacuation. These men and women felt as strongly against the evacuation as I and others feel against the occupation. They truly believed that they were being treated unjustly, as I truly believe that the Palestinians are being treated unjustly. Although I do not agree with the settlers that the evacuation was unjust, I can sympathize with their feelings and with their urge to do whatever they can to prevent an injustice. But even with these resolutions in mind, accepting the settler's right to practice disobedience demands a significant concession on my part. It requires me to accept a struggle that contradicts my moral views, and that might have had disastrous consequences for Israel. As I have tried to show,

democratic values suggest that I and others in the left should make this concession, and pay the price it entails.

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