

Civil Disobedience: Justice Against Legality

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The 20th century with its spectacular revolutions, two world wars, its perfected ideology of oppression and its industry of human destruction seems to be a cruel illustration of the results that follow from attempts to make people happy by force. On the other hand, the 20th century has introduced and revealed the practical effectiveness of non-violent forms of resistance, of civil disobedience, in particular. In recent times has arisen a wave of civil disobedience that has shattered the whole of Eastern Europe. The independence struggle of the Baltic peoples in the U.S.S.R. has been prominent here, and it is this that we shall consider below.

Without going into particular details of the theory of civil disobedience, we shall mainly use the definition by H. Bedau which reads: "Anyone commits an act of civil disobedience, if and only if, he acts illegally, publicly, nonviolently, and conscientiously with the intent of frustrating (one of) the laws, policies or decisions of his government." The concept of civil disobedience, as it is presented in this definition, is closely connected to the problem of the foundations of public law defining the relation between the individual and the state. Is it the case that a citizen has a moral right to disobey the law?

The answers to this question have been divided into two opposing positions ever since antiquity: the one is that a citizen should unconditionally obey the law, the other is that he should obey only the just laws. It is evident that only the second position could justify civil disobedience, for it appeals to the moral foundations of law. The contemporary understanding of the problem should rely on the ideas put forward by J. Locke, J. J. Rousseau, I. Kant and other philosophers from the age of early European liberal democracy. In approaching the problem of the relations between the citizen and state power all these philosophers were basing their ideas on the distinction between justice and the law. This idea is most fully developed in Kant's social philosophy, accord-

ing to which just laws should be expressive of people's general will as symbolized by a social contract. The parties to the contract are moral persons whose choices are governed by *a priori* principles of freedom, equality and self-dependence. Only those laws which do not violate these principles are accepted as just. Kant, in particular, stressed that no ends, however sublime, can justify a deviation from these principles, that moral reasons should reign supreme over expedient ones. This Kantian conclusion, directed against Hobbes' *Leviathan*, the symbol of utilitarian heteronomy, is of particular importance today.

Though Kant did not attempt to construct a theory of civil disobedience, the spirit of his practical philosophy allows for non-violent opposition to unjust governmental decisions. Kant does acknowledge the people's right "sometimes not to yield to the demands the executive wrongly holds necessary for the ruling of the state." Kant's practical philosophy contains all the premises for the contemporary concept of civil disobedience, mainly associated with the ideas and the actions of H. Thoreau, M. Gandhi, and M. L. King. The main demands of civil disobedience -- nonviolent quality of action, its public character, defying a law while keeping respect for law are all based on the premise of human morality. Morality for Kant meant the autonomy of will, i.e. freedom. And the only relation binding a free person to authority could be that of contract. This implies the right of disobedience. The other essential feature of civil disobedience, its non-violent character, can be derived from the idea of person as the absolute value ("the end in itself").

This short introduction to the problem also suggests a somewhat wider interpretation of H. Bedau's definition, supplemented by the thesis that the specific feature of civil disobedience is its moral basis. The movements of civil disobedience, though often pursuing political ends, are essentially concerned

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with defending equal moral rights for persons and nations. With this in mind, let us proceed with an analysis of the independence movement in Lithuania.

The movement that has overwhelmed the whole of Lithuania is often called the second renaissance. Its main forces have been concentrated in the mass movement of *Sajudis*, the formal institution of which the author has witnessed in June 1988 at the Lithuanian Academy of Sciences the author has witnessed. At first, it was dominated by mainly negative aims; its energy was directed against bureaucratic administrative system. By using exclusively non-violent means of struggle (meetings and demonstrations, hunger strikes, mass petitioning, picketing, etc.) the *Sajudis* was easily achieved the replacement of the first secretary of the Communist party by Algirdas Brauzauskas, the man who in a year-and-a-half led Lithuanian communists to the XXth extraordinary congress which proclaimed their independence from the communist party of the Soviet Union. But soon the goals of the *Sajudis*, especially the main goal of Lithuanian independence, became positive. The struggle for independence is carried on two fronts simultaneously: against the conservative forces of the Moscow center and against local conservatism and inertia. The *Sajudis*, in the words of one of its leaders, R. Ozolas, went from the stage of "flag flying" to that of constitutional change. The way of parliamentary reform was taken up.

In spring 1989 *Sajudis* won a landslide victory in parliamentary elections to the Supreme Soviet of the U.S.S.R. The actions undertaken by *Sajudis*, the atmosphere of liberation that has been created, have decisively influenced the previously elected Lithuanian parliament in its promotion of laws on official language, citizenship, referenda, as well as the constitutional amendment proclaiming the supremacy of Lithuanian laws over those of the U.S.S.R. in Lithuania. The *Sajudis* movement is unquestionably supported by the whole of Lithuania. This is shown by the sheer numbers of participants in its public actions. For instance, the 1988 petition against the constitutional amendments to the U.S.S.R. constitution was supported by 1.8 million signatures. The most spectacular action was the "Baltic Way," an action organized by the *Sajudis* together with the Popular fronts of Latvia and Estonia. The action was directed against the 1939 August 23rd pact between the U.S.S.R. and Germany, signed by Molotoff and Ribbentrop, depriving the three Baltic states of their independence. In commemoration of the fiftieth anniversary some two million people from Lithuania, Latvia and Estonia joined hands to make a live chain of 600 km connecting the three capitals of Vilnius,

Riga and Tallin. This was an unprecedented demonstration of protest and solidarity! On the eve of the action a special commission by the Supreme Soviet of Lithuania formally denounced the pact and the subsequent occupation of Lithuania in 1940. Some months later the same statement was made by the Estonian parliament. Besides, in Lithuania some 1.5 million signatures, denouncing the consequences of the pact, were collected. All of this probably had some influence on the U.S.S.R. Supreme Soviet Commission's conclusions on the invalidity of the pact declared only in December 1989 at the second Session of the Supreme Soviet.

The publicly declared fact of Lithuania's being occupied embittered the people's attitude to the Soviet army present in Lithuania and gave impetus to another action, undertaken somewhat earlier, against the Lithuanian youths serving in the Red Army. Facts have been disclosed about the inhuman conditions in the army, conditions responsible for numerous cases of violent death, mutilations, and suicides. Following the demands of the Lithuanian Women's Union, a commission of youth military service was set up at the Supreme Soviet to investigate the facts. The youth and the students in particular protested against the military service by publicly burning their conscription orders and by failing to turn up at conscription places. Denouncing aggressive policies 102 former soldiers renounced their military awards from the Afghanistan war. At a meeting commemorating the tenth anniversary of the war, the awards were returned to the Supreme Soviet of Lithuania. The declaration proclaimed at the meeting reads: "We consider the state awards both illegal and immoral. And we appeal to all the participants of the war to return these awards to their true owners."

The position of the *Sajudis* with respect to this spontaneous protest has remained somewhat reserved. It supports the Lithuanian youths' wishes to do their military service in Lithuania or at least in the Baltic region, but it does not urge an outright violation of the law that is subject to heavy punishment. So far neither the attempts to solve the problem in a parliamentary way, nor the meetings of Lithuanian deputies at the Supreme Soviet with M. Gorbachev and the Defense Minister D. Yazov have produced the desired results.

Better results were achieved on another disputed question, that of the right of soldiers serving in Lithuania (so-called "non-permanent inhabitants of Lithuania") to take part in the elections to the Supreme and the local Soviets. At some earlier (1989 September and December) of the Supreme Soviet the deputies did not accept the *Sajudis'*

proposal to prohibit participation of non-permanent inhabitants in elections. The election law was passed, and a decision favorable to servicemen seemed to be final. Yet the rapidly changing political situation was effectively used by the newly formed democratic party. Soon after the adoption of the referendum law the party began collecting signatures under a petition that read: "I demand that a referendum be held on the question of whether servicemen, non-permanent inhabitants of Lithuania, may vote in elections to the Supreme Soviet of the Lithuanian S.S.R." The required number of signatures was collected, obligating the Supreme Soviet to proclaim the referendum. A session of the Soviet did not proclaim the referendum; instead it made an amendment to the law that disallows non-permanent inhabitants from taking part in elections. The results of the upcoming elections are of such great importance to Lithuania that it would have been unpardonable lightmindedness to allow the elections to be influenced by voters indifferent or even hostile to Lithuanian interests. The amendment of the law can be considered a significant victory of progressive Lithuanian forces in their parliamentary struggle.

Sajudis has a great influence on the political life in Lithuania. The official political structure has been reformed in accordance with the main demands of the *Sajudis*. The Lithuanian Supreme Soviet was the first in the Soviet Union to eliminate the constitutional rule giving the leading role in society to the Communist party; it has legalized the multiparty system. The democratic party and the party of social democrats have already been officially registered.

The Communist party, which suffered crushing losses in the Spring elections of 1989 to the U.S.S.R. Supreme Soviet, took radical measures in its attempt to keep on the surface of political life. The extraordinary XXth party congress, 20th December of 1989, proclaimed the former Lithuanian division of the U.S.S.R. Communist party an independent party with

its own programme and statutes. This move by the Lithuanian communists and the subsequent plenary meeting of the Central Committee, as well as Gorbachev's visit to Lithuania, has really raised the prestige of the communist party, particularly that of its first secretary Algirdas Brasauskas. Soon after the congress he was elected the chairman of the Supreme Soviet of Lithuania.

One can say that the main political forces in Lithuania are pursuing the same end, the independence of Lithuania. It is no accident that the newly formed Lithuanian Supreme Soviet commission on restoring Lithuania's independence includes representatives of different political forces in Lithuania. It is also to be noted that among the nineteen members of the newly elected political bureau of the Lithuanian communist party there are seven leading figures from the *Sajudis* council. Among the leaders of the democratic and the social democratic party there are also many from the *Sajudis* assembly of representatives.

Born as a moral opposition to the authorities *Sajudis* gradually developed into a strong political power which succeeded in uniting Lithuania in its independence aspirations. But it cannot be considered a political party; it is rather a typical movement of civil disobedience that has united the people on a moral basis, not on the basis of some political programme. Sovereignty is the expression of a nation's autonomy. In its support for the "universally held human and civil rights that lie at the basis of the common right of Lithuanian people: to choose and develop the forms of independent statehood" (The *Sajudis* Independence Declaration), the *Sajudis* essentially appeals to the moral rights of the person (the nation). The future of the *Sajudis* movement is early foreseeable: after reaching the goal called for by the people, it is to dissolve into the social life of Lithuania, until the *Sajudis* remain the consolidating power in Lithuania.