



CIVIL DISOBEDIENCE IN A DEVELOPING DEMOCRACY: A RAWLSIAN EVALUATION OF THE ENDSARS AND END-BAD-GOVERNANCE PROTESTS IN NIGERIA

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Abstract

The concept of civil disobedience is becoming a widespread issue in most countries of the world today. It is such that real concerns as to the mode of implementation of acts of civil disobedience, their target goals, and the actual outcome for each of them pose serious philosophical questions, especially to their justification and their impacts on society. In Nigeria today, civil disobedience has been expressed in different ways through various means. It is therefore the aim of this paper to use John Rawls' thesis to make an adequate critique of civil disobedience in Nigeria. The relevance of this academic exercise is to explore a few notable cases of civil disobedience in the country so far to find out whether or not they can be reasonably justified as credible or not, using the Rawlsian model as a theoretical framework. Methodologically, one applies textual analysis with special reference to Rawls' work, the Theory of Justice, and goes on to make a philosophical critique of the applications of civil disobedience in Nigeria so far. The first task, therefore, is to explore the major arguments and themes in Rawls' thesis on civil disobedience, while the second is a systematic critique of Nigeria (with special reference to the EndSARS and End-BADGOVERNANCE protests) in light of Rawls to justify or refute the particular incidents of civil disobedience, and the impacts they have had on Nigeria's socioeconomic life. Within the context of this work, one gathers that while civil disobedience is justifiable when it satisfies the right conditions and respects its legal boundaries, it also suffers particular challenges in less democratic spheres and developing countries.

Keynotes: Civil, Disobedience, EndSARS, EndBADGOVERNANCE, Protest and Justice.

Introduction

“Civil Disobedience”, according to Mahatma Gandhi “becomes a sacred duty when the state becomes lawless or corrupt”.¹ Ordinarily, the idea of civil disobedience is informed by dissatisfaction with the Government of the day, and with its unacceptable acts of injustice, corruption and unpopular public policies or treatment which the citizenry or a section of the society finds inadequate and tries to express their dissatisfaction with the trend. Following the democratic nature of modern states and nations, civil disobedience has come to be a welcome development in most countries as an effective way through which the citizenry conveys their message of unfair treatment and dissatisfaction with the unjust public policies of government, with the view that the desired action be carried out to address the issue. Thus, one occasionally sees people go on peaceful protests on the streets carrying placards and chanting songs conveying messages they intend to send to the government. One also sees instances of strikes



and union movements using acts of ‘civil disobedience’ to compel the government into doing their bidding or complying with pacts already made between them and the government. The American Civil Rights Movement and the Anti-Apartheid Movement of South Africa, which was led by Nelson Mandela and Desmond Tutu, are among globally-acknowledged civil rights movements that yielded significant results.

In Nigeria, there have been notable civil disobedience acts and movements that can be cited, and which could have yielded positive results or not. There were the Aba Women’s Riot of 1929, the Nationalist Protests in the 1950s, Enugu Coal strikes that occurred between the 1940s and 1950s, and the ‘Ali Must Go’ Students’ protest of 1978. Others were the ‘June 12’ pro-democracy movement after the annulment of the election results by then President Ibrahim Babangida; the ‘Occupy Nigeria’ 2012, and the EndSARS Protest 2020/2021. These recorded trends in the history of Nigeria demonstrate that the culture of civil disobedience is not just novel to the country, but that Nigeria flaunts groups of people who understand the principles of civil disobedience, its goals, and who have the right disposition to oppose unjust laws, corruption, bad governance, and public policies.

Within the context of this paper, one acknowledges the in-depth analysis and critical review that the famous British philosopher, John Rawls, made of the concept of civil disobedience. Rawls had not only examined the notions of civil disobedience and its justifications, but he also presents conditions which must be considered by those who intend to embark on it, so that what is meant as a check on the excesses of government and a modest means to address issues of political injustice does not turn soar becoming a tool for social and political instability. An articulate examination of the EndSARS and EndBad-Governance nationwide protests in Nigeria, in light of Rawlsian principles and conditions for civil disobedience, would highlight the prospects and challenges of employing civil disobedience in some democratically developing countries today.

Rawls on Civil Disobedience

According to John Rawls, “Civil disobedience is a public, nonviolent yet political act contrary to law usually done to bring about a change in the law or policies of the government.”² For Rawls, therefore, civil disobedience is a public event, but must be a non-violent approach. It is one of those acts that challenges the regular business of Government in its policies, laws, and acts, *albeit* within spheres and practices that are acknowledged by the laws within which the same society professes. In this sense, then, civil disobedience can be said to be one of the legitimate means for the expression of the citizens' disapproval of unwanted and unpopular public policies and the government’s acts, demonstrating the need for change without being held culpable by the law. Its public nature stems from the fact that it points to issues that affect the public trust and welfare. “The act is public because it is addressed to the sense of the majority and it expresses disobedience to law within the limits of fidelity to law, although it is at the outer edge thereof.”³ On the principle of non-violence, “it is nonviolent since it appeals to the sense of justice of the community.”⁴ It is targeted at addressing injustice and restoring justice to affected areas, and thus has to be carried out within the ambience of the law.



Again, civil disobedience is not irrational, or some kind of thuggery event or unreasonable mob action. It is not a tool in the hands of a few selfish individuals to confuse within the polity as a strategy to attain some hidden and unscrupulous agenda. In the words of Rawls, “Civil disobedience is conscientious in that is guided and justified by political principles, that is, by the conception of justice which underlies the political order.”⁵ Because of its inherent strive for justice, civil disobedience can also be a legitimate tool in the hands of the minority who can confidently rise up against perceived injustice perpetrated by the dominant majority. Rawls captures this in his argument that, “a minority group has a right to engage in civil disobedience when it sincerely believes that the principles of justice are being violated and that the majority has failed to uphold the political constitution that they themselves accept.”⁶ Ordinarily, modern democracy is noted for its strategic and institutionalized use of universal suffrage with a legitimate acknowledgement of “majority rule” as platform for political leadership and decision-making. It therefore becomes feasible that the political activities, public policies, and legislative outcomes could negatively affect minorities while finding justification in the legitimating pronouncements of the majority in the Houses of Assembly. One strong mode of demonstrating discontent with what they (minority groups) could not change during legislation due to a lack of numeric strength is civil disobedience. Rawls acknowledges this capacity and sees it as justifiable when carried out appropriately.

From a more critical outlook, Rawls draws pertinent insights on civil disobedience as one that gains grounds and attains legitimacy in democracies. It takes democracy, the constitution, and its social and legal institutions to make civil disobedience reasonable and applicable. “Civil disobedience is a stabilizing device in a constitutional regime, tending to make it, or just by reducing departures from justice and correcting departures when they occur.”⁷ To make clear his emphasis on civil disobedience as a legitimate tool to keep in check the acts of government and ensure justice within the polity in the activities of the dominant political group, Rawls distinguishes between “civil disobedience” and mere act of “conscientious refusal”. he notes that the “difference between civil disobedience and conscientious refusal lies in the appeal. Civil disobedience is addressed to the sense of justice of the majority, while conscientious refusal is based on personal or religious conviction and may not appeal to the political conception of justice.”⁸ Rawls clearly singles out the goal of civil disobedience as ensuring that “political justice” is sustained in the polity. It arises and gains momentum when there is a clear breach in the political justice system, in which sense one or a few of those principles agreed upon in the *Social Contract* are violated by all parties to the contract, by the government or its social and political actors. When a party to the contract feels aggrieved, civil disobedience becomes one sure way to point to the breach in political justice and to clamour that the particular injustice or act of injustice be addressed. When disobedience stems from other reasons other than those which political justice requires (like religious and personal grounds), it becomes ‘conscientious refusal’. “A soldier who refuses to serve in an unjust war because he believes it is contrary to his religious or moral convictions exemplifies conscientious refusal, not civil disobedience, since his action is not normally designed to appeal to the sense of justice of the community.”⁹ This also draws one’s attention to another important tenet of civil disobedience, as pointed out by Rawls. Civil disobedience is a public affair. It addresses issues of political justice, while conscientious



disobedience on its own grounds can be private and most times does not refer to issues of political justice.¹⁰

Rawls' Justifications for Civil Disobedience

While Rawls acknowledges the legitimacy of civil disobedience, he places conditions under which civil disobedience can be justified. Not all acts of disobedience to the state would be tagged civil disobedience. Some parameters must be met, and there must be a legal and constitutional guarantee for it. Any act of dissidence towards the state that does not pass these conditions becomes something else, and not civil disobedience as protected by the law.

For Rawls, therefore, the first condition is a clear and substantial act of injustice. "First, Civil disobedience is justified only in instances of substantial and clear injustice. The principles violated must be sufficiently serious and obvious to warrant the appeal to the public sense of justice."¹¹ Secondly, it has to be "last resort". This means, that it could only come up after exploring available legal means. Civil disobedience is "justified only after normal appeals to the political majority have been made in good faith and it is clear that they are not being heeded. It should be a last resort when lawful political action has failed".¹² There is the third condition, which for Rawls would be putting up "proportional and reasonable action". "Third, civil disobedience should be guided by the principle of fairness: it should be limited and calculated, addressed to the majority's sense of justice, and it must not be such as to threaten the stability of the legal order itself."¹³

Philosophical Insights into the Credibility of Civil Disobedience within an Unjust Society

It is important to note that Rawls was not alone in the defense of civil disobedience. There have been other acknowledged thinkers who have approached the matter either from the socio-political angle or from the moral point of view. Henry Thoreau defends the notion of civil disobedience from a moral perspective, arguing that individuals must not allow the government to overrule their consciences. For him, when laws become unjust, they must be broken.¹⁴ In direct words, one could say that for Thoreau, moral responsibility to do the right thing supersedes legal obligation that is unjust. For he clearly states that, "The only obligation which I have a right to assume is to do at any time what I think is right."¹⁵ His defense for civil disobedience is uncompromising as he strongly maintains that, "if the law is of such a nature that it requires you to be the agent of injustice to another, then I say, break the law."¹⁶ While his moral temper is to be appreciated, one recalls that for Rawls, acts of civil disobedience must be public and then devoid of personal convictions like one's religious and private demands. Civil disobedience for Rawls should be only targeted at issues of political justice, and only within this set-up would it find appropriate justifications. Mahatma Gandhi has a more articulate version of civil disobedience, which captures the moral duty to defend what is right alongside the right political ideology to fight injustice and oppression through non-violence.¹⁷ For Gandhi, there is the 'truth-force' *satyagraha*, which projects and defends non-violent resistance against unjust laws and colonial oppression in Africa and India. In this sense, then, 'nonviolence' *ahimsa* could be seen as both a political and a moral tool towards resisting injustice in society.¹⁸ For Martin Luther King Jr., who also adopted and toed the path of non-violence in the American civil rights



movement, also defends the moral argument for civil disobedience. “One has a moral responsibility to disobey unjust laws.”¹⁹

Among these three foremost crusaders of civil disobedience, one finds strongholds on moral duty, conscience-bound obligation to defend the society and people from injustice and oppression in the state, and especially those acts of injustice perpetrated through government acts and public policy, but also strategic segregation and oppression.

A Critique of the EndSARS and EndBAD-GOVERNANCE Protests in Nigeria

Nigeria currently suffers a number of social ills like corruption, bad-governance, lack of transparency, embezzlement of public funds, nepotism, poverty, and above all, insecurity. Despite channels to get the government, its agencies, and institutions to fix the situation, citizens are met with negligence and victimization at the hands of the Police and Armed Forces. Added to this is the lack of integrity and corruption that characterize the Judiciary and Criminal Justice systems in the country. The resultant effects of these ills are a lack of trust in the Government, fear of the unknown, displacement, and dehumanizing treatments on the citizenry due to a dysfunctional security network and terrorism across the nation.

Subsequently, the End SARS and End-BADGOVERNANCE protests in Nigeria, in recent times, were posed as reactions to the gross police brutality and high level of hunger, poverty, corruption, and insecurity that now bug citizens across the nation. As a matter of fact, these movements, when scrutinized in light of the conditions spelt out by John Rawls as necessary, and which justify them within the ambience of the law, one finds conditions existent, thereby providing justifications to the protests. These conditions, as clearly specified in Rawls (violation of a serious justice principle; the normal democratic and legal platforms for expressing non-acceptance of the issue to be addressed; and that the act of civil disobedience should be proportionate and non-violent) have been clearly faulted in Nigeria. If one goes by the theory of the Social Contract which establishes constitutional democracy and a distributive (social) justice platform for ensuring equity, fairness and equal access to the commonwealth, which Rawls defends in his *Justice as Fairness*,²⁰ then various groups and political components of the Nigerian state have down the years shown their discontent with the level of injustice in the state. Cries of marginalization, failure to provide basic socioeconomic amenities, insecurity, hunger and poverty, state-sponsored aggression and intimidation by members of the Nigeria Police and the army, especially on the poor and less-privileged members of the society, continue to be the order of the day. Added to this is a weak and corrupt justice delivery system where the law has become an asset of the government and an illusion to the poor. Reasons that therefore justify civil disobedience in Nigeria abound, and activities like those expressed and championed by the EndSARS and End-BADGOVERNANCE movements clearly have their justifications. Below is a corroboration of this fact:

The scale of the damage is not rhetorical. Nearly half of Nigerians (an estimated 45-47 percent) live in poverty today, a backslide from gains made in previous decades. This is not HAPPENSTANCE; it tracks directly with a failure to translate national resources into public goods and inclusive growth. When resource rents are privatized, the social contract ruptures. The



numbers come from the World Bank and national poverty assessments: tens of millions of Nigerians count themselves among the dispossessed while national treasure is diverted.

Corruption in Nigeria is structural and systemic, not episodic...”²¹

To attest to the credibility of civil disobedience in unjust socioeconomic structures in countries like Nigeria, commendations continue to trail the organizers and participants of the EndSARS protests to this day, irrespective of the casualties and the unacceptable way the Government clamped down on the movement. Omotayo saw in the youths' bold, courageous, and resilient capacity to use civil disobedience to challenge the government. In his observations, both physical and digital means were effectively employed in the movement, marking a paradigm-shift to political and popular engagement in the business of governance.²² Adding credence to the rational and moral justifications of civil disobedience in Nigeria, Adedokun approves its use as a proactive strategy to ensure democratic sustainability in Nigeria. Culling instances from the Bible, *Acts 5: 17-42*, he defends it as morally and religiously justified, as it serves to ensure that democracy in Nigeria is sustained.²³

Evaluations and Conclusion

The EndSARS and End-BADGOVERNANCE protests in Nigeria prove that to a significant degree, the Nigerian citizenry has built enabling intellectual and moral capacity for social critique and responsible involvement in the affairs of government. However, the climate continues to be hostile to protesters as government forces and security agencies have on several occasions clamped down on some protesters, leading to casualties and deaths, as one records in both the EndSARS (the Lekki Tollgate Saga) and the End-BADGOVERNANCE (in some parts of Northern Nigeria). Similarly, while the EndSARS protest was largely non-violent, organized, and law-abiding, that of the End-BADGOVERNANCE was characterized by some acts of thuggery, vandalism, and aggression. On the side of the Government, security agencies, politicians, and relevant state actors should respect the legitimacy of civil disobedience and refrain from carrying out human rights abuses and using violence or lethal arms on protesters. This is morally wrong and politically unacceptable. On the part of the citizenry, and especially those who practically get involved in the protests and any form of justified civil disobedience, the principles of non-violence (as seen in Gandhi and Martin Luther King Jr.) and use of non-provocative ideologies that could harm the state and stir up aggression through vocal speeches during the course of the protest/movement, through the social media and any other communication means should be jettisoned. Civil disobedience, following from Rawls' arguments, should be targeted at addressing political injustice, not to cause instability or provoke aggression or armed conflict within the polity. It remains important that in the bid to carry out further acts of civil disobedience in Nigeria, the intending group of persons should be properly mentored on the conditions that justify civil disobedience and charged to act within the ambience of the law before getting started. While civil disobedience may not get the Government to do the bidding of the protesters as they seek, it remains a viable tool of social critique, creating awareness and a proactive push on state and political actors to review the issues of injustice being targeted at. While in a way, the EndBadGovernance protest was characterized by unlawful



acts of thuggery, aggression, and vandalism, thereby offending Rawls' third condition: non-violence and proportionate means, in some parts of the country, the EndSARS protest stands out as one of the most organized and law-abiding civil disobediences in the history of Nigeria.

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