

SAMPLE NEGATIVE CONSTRUCTIVE

Resolved: Civil disobedience in a democracy is morally justified.

NOTE: The intent of this document is to show you a sample of a novice case on the civil disobedience topic that incorporates evidence, a value, criterion, and contention level arguments. Based upon the lesson plans in the Civil Disobedience unit, this case would meet the suggested requirements. *It would be considered plagiarism for you to use this case for class or competition, which would violate our Association's honor code.*

I negate. Civil disobedience in a democracy is not morally justified because it poses an unacceptable threat to the rule of law.

In a democracy, minority groups have basic rights and alternatives to civil disobedience.

Joan **Spero and** Jeffrey **Hart**, "Democracy." The Politics of International Economic Relations. Online.

<<http://www.indiana.edu/~ipe/glossry.html>> **define a democracy by the presence of:** Literally, the term means power of the people (combining the Greek words *demokratia*, meaning "the people," and *kratos*, meaning "to rule"). It is usually used to describe a political system where the legitimacy of exercising power stems from the consent of the people. Accordingly, a democratic polity is often identified by the existence of **[1] constitutional government, where the power of the leaders is checked and restrained; [2] representative institutions based on free elections**, which provide a procedural framework for the delegation of power by the people; competitive parties, in which the **[3] [a] ruling majority [that] respects and guarantees the rights of minorities; and [4] civil liberties, such as freedoms of speech, press, association, and religion.**

Next, Professor Joshua Dressler define morally justified as:

"Specifically, I have argued that conduct is, or ought to be, **justified**, without consideration of an actor's character, **whenever the conduct is morally good or tolerable**, whether deontologically or teleologically based." "New Thoughts About the Concept of Justification in the Criminal Law: A Critique of Fletcher's Thinking and Rethinking" in *UCLA Law Review*, Vol. 32, 1984, p. 98.

Since the resolution requires a *moral* justification, **I value Morality.**

My value criterion is protecting the rule of law. Prefer my criterion for two reasons:

First, when living in a democracy, people consent to be governed by the majority. Civil Disobedience breaks this contract.

John Locke explains:

"Whosoever therefore out of a state of nature unite into a community, must be understood to give up all the power, necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority."

When a person is living under government, they have given up individual power to the majority. They are obligated to follow whatever laws the majority creates. While the people have a right to revolt, such a right is only manifest in the majority.

John Locke continues:

"It is true, such men may stir, whenever they please; but it will be only to their own just ruin and perdition: for till the mischief be grown general, and the ill designs of the rulers become visible, or their attempts sensible to the greater part, the people, who are more disposed to suffer than right themselves by resistance, are not apt to stir. The examples of a particular injustice, or oppression of here and there an unfortunate man, moves them not."

People may revolt and break the social contract, but only when the majority of the people agree to do so. Because people have agreed to give up certain power in a democracy doing otherwise erodes Rule of Law.

Second, the rule of law is necessary for any system of morality of exist in the first place.

Emil Brunner clarifies: “In a state of anarchy, no justice is possible, since ‘the devoutest of men cannot live in peace if his wicked neighbor does not so desire.’ But under a unified coercive power, however little it may trouble about justice, justice is at any rate possible since the mutual use of force by individuals is eliminated by the State monopolization of power.”

Contention I: Civil Disobedience poses an unacceptable threat to the rule of law.

A) Civil disobedience trivializes good laws even if it targets only bad laws. Civil disobedience involves breaking the laws that order daily life. For example, protestors might block a street or refuse to cooperate with the police. However, once we allow protestors to break these laws, citizens will exploit these loopholes.

Professor Matthew Hall explains: Unfortunately, we have reached that point. Both disobedients and scholars advocate the abolition of punishment for civilly disobedient acts. Freedom from punishment removes a crucial deterrent that restrains civil disobedience. Acceptance of punishment establishes that civil disobedience respects the rule of law and ensures its weighty, rather than petty, character within the political debate.

Another **[One] danger lies with those protesters who claim participation in** the tradition of **civil disobedience even though they direct their conduct toward private parties, rather than the government, and thus wrongly reposition civil disobedience as direct action designed to stop particular conduct rather than as political discourse intended to produce systemic change.** On yet another front, **public officials cloak their defiance of the law in the mantle of civil disobedience, posing a distinct danger,** not just **to the obligation to obey the law,** but **[and] to the need for consistent administration of the law by the legal system itself.**

B) Peaceful protests often escalate into violent conflicts and create anarchy. Just last summer, a peaceful demonstration caused massive riots in London.

Lewis writes: Tottenham riots: **a peaceful protest [resulted in anarchy],** then suddenly all hell broke loose. Shops looted, vehicle torched and police injured in full-scale riot that spread across north-London suburbs. Asked if the Metropolitan police were slow to respond to the Tottenham riots, commander Adrian Hanstock replied: "No, not at all." That account, given outside Scotland Yard on Sunday morning, did not correlate with events that had unfolded several miles away in north London hours earlier. **What began as a gathering of** around 200 **protesters demanding answers over the death of Mark Duggan,** who was shot dead by police on Thursday, **culminated 12 hours later in a full-scale riot that saw brazen looting spread across north-London suburbs.** By 5.00am, at Tottenham Hale retail park, teenagers were still emerging from shops into the dawn sunshine, stuffing bags and trolleys with stolen goods and running into back streets. Some officers had apprehended a handful of looters; others had their phones out and were taking pictures of a burnt-out car. At exactly the same time, looting was taking place nearly two miles away, on Wood Green high street, where approximately 100 people had spent hours burning cars and breaking into high-street shops. Some were even filling suitcases. As for police – who had claimed to have "contained" disturbances six hours earlier – there was none in sight. By Sunday night police said **there** had been **[were] 55 arrests, and 26 police officers injured.** Yet what marked the weekend's disturbances were not the number of people hurt but the scale of property destruction. **Throughout the borough, shops, pubs, banks and even residential properties had been ransacked and torched.**

Contention II: Civil Disobedience is counter-productive. Courts and other legal institutions are more effective.

Professor of Journalism Penny O'Donnell explains: at the University of Technology Sydney, November 8, 2002; "Civil Disobedience Today." Research Initiative on International Activism. On line. <<http://www.international.activism.uts.edu.au/civildis/pdfs/civildisobediencetoday.pdf>> All the acts of **civil disobedience** mentioned at the start of this paper were **[is] extensively reported in the news media.** At first glance, that suggests that getting noticed is not such a problem, that political dissent is newsworthy. **However,** on closer inspection, the **news coverage is predominantly negative.** News **stories focus on the disruptive and/or violent nature of the activists' actions.** In doing so, they obey the media logic mentioned earlier. **A good news story has drama, action, conflict.** It is well established in studies of news access that **when journalists** name or **stigmatize activists as violent/anti-social,** **they are likely to frame their interpretations of these actions in terms of illegitimate, marginal and/or unwelcome political demands** (Cottle 2000). **In this way they are often trivialized and robbed of credibility in the public domain.**

So, citizens should make use of courts and other institutions designed to check against the abuses of majority rule.

The American Civil Liberties Union explains: The ACLU was also involved in the 1973 the Supreme Court victories in *Roe v. Wade* and *Doe v. Bolton*, which held that the right to privacy encompasses a woman's right to decide whether she will terminate or continue a pregnancy. **In 2003, the ACLU helped persuade the Supreme Court in *Lawrence v. Texas* to expand upon the privacy rights established in *Roe* when it struck down a Texas law making sexual intimacy between same-sex couples a crime.** One of the most noted moments in the ACLU's history occurred in 1978 when

the ACLU defended a Nazi group that wanted to march through the Chicago suburb of Skokie, Illinois where many Holocaust survivors lived. The ACLU persuaded a federal court to strike down three ordinances that placed significant restrictions on the Nazis' First Amendment right to march and express their views. The decision to take the case was a demonstration of the ACLU's commitment to the principle that constitutional rights must apply to even the most unpopular groups if they're going to be preserved for everyone. Many now consider this one of the ACLU's finest hours. That commitment to principle in difficult situations continues today. **Since the tragic terrorist attacks of 9/11, the ACLU has been working vigorously to oppose policies that sacrifice our fundamental freedoms in the name of national security.** From opposing the Patriot Act to challenging warrantless spying to challenging the indefinite detention of terrorism suspects without charge or trial, the ACLU is committed to restoring fundamental freedoms lost as a result of policies that expand the government's power to invade privacy, imprison people without due process and punish dissent. **The ACLU also remains a champion of segments of the population who have traditionally been denied their rights, with much of our work today focused on equality for people of color, women, gay and transgender people, prisoners, immigrants and people with disabilities.**



