

C100: Op-Ed

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Why Civil Disobedience is Necessary for Democracy—A Powell Critique

In his law review, “[A Lawyer Looks at Civil Disobedience](#),” former Supreme Court justice Lewis F. Powell Jr. argues that if people engage in civil disobedience based on individual conscience, the rule of law will begin to erode.

We are not living in a colonized state and thus, Powell discerns that the proper legal channels are available. Civil rights activists should have utilized them to address their injustices in court.

Yet, Powell’s statement is rooted in an incredibly traditional view of the law, which overlooks the possibility of citizens’ rights being infringed upon.

And the heart of the matter is—we currently reside in the world which Powell fears.

After the [overturning of Roe v. Wade](#) back in 2022, the Supreme Court ruled that the constitution no longer grants the right for one to terminate a pregnancy. 50 years of federal protection for abortion access was discarded and now, this freedom is determined by our individual states.

Abortion is incredibly common. As of 2014, almost [1 in 5 pregnancies ended in abortion](#). Not only is the overturning a direct attack on bodily autonomy, but an evident threat to a patient’s safety and health equity.

Immediately following the ruling, 13 states with ‘[trigger laws](#)’ (bans designed to immediately prohibit abortion) were enacted. Penalties for up to [life in prison](#) were imposed onto those who performed this category of procedures.

As of this year, abortion access is banned at all or nearly all stages of pregnancy in [13 states](#). Several states such as [Georgia](#) and [South Carolina](#), have expelled the right to an abortion at the six week mark—before most individuals are aware that they are pregnant.

The [exceptions for an abortion](#) are incredibly narrow. They involve protecting the life of the person pregnant, with even fewer exceptions that include either rape or incest.

Immediately following this Supreme Court decision, [mass protests](#) erupted across the nation—each one condemning the ruling, many of them chanting: “my body, my choice”.

Through Powell’s argument, any individual who resists these laws, either through simply protesting or outright defiance, undermines the American legal system.

However, it is evident that this framing misses a fundamental truth—when the law contests basic rights, compliance is acceptance. To many, protesting the reversal of Roe v. Wade was an expression of their democracy. It was also utilized to advocate for states to uphold abortion access in subsequent political actions.

Powell refuses to address a dangerous reality. When laws are unconstitutional, obedience should not be inherent. When the law innately degrades the human experience, it does not *deserve* a population’s compliance. It demands resistance.

Powell's argument rests on the ideology that if civil rights activists can disobey laws they deem as unjust, so can segregationists. Of course, Powell is right—if individuals pick and choose which laws they should follow based on moral conscience, the rule of law would unravel quickly.

But here is where the real issue resides—carrying out civil disobedience in regards to abortion access in 2022, and segregation based on race during the 1960s was *not* 'random' lawbreaking. Because in these particular situations, activists' perspectives were rooted in publicity and accountability—not for rejecting the rule of law but for the purpose of exposing its perpetual, moral failures.

Powell's argument begins to collapse further when he criticizes the discord created by civil rights protests, particularly in relation to the case of [Brown v. Louisiana](#). He goes on to say “one would have hoped that libraries would be protected from the disruption of all disobedience tactics...”

Here, Powell suggests there is a proper time and place for dissent to occur. This is a dangerous philosophy.

If such spaces are vulnerable to racial discrimination, why must activists exclude themselves from protesting peacefully within them? If discrimination unfurls in public institutions, then aren't these the exact places in which protests belong?

Powell needs to understand—when it comes to fundamental human rights, there is no space for apathy. The public pressure of activists' passion ignites physical urgency. This mobilization is essential in confronting a state's constitutional proceedings. Without this imperativeness, future moral change is unlikely to thrive.

Powell fears that civil disobedience will dismantle the legitimacy of the American government—that it will fall apart if individuals seek to challenge it. This idea is wrong.

What truly erodes the legitimacy of an institution is this: obedience. Obedience in a system that enforces injustices only goes on to preserve them.

Thus, the real threat is not that people will disobey unjust laws—it is that they won't.