

**ISTANBUL TECHNICAL UNIVERSITY ★ GRADUATE SCHOOL OF ARTS AND
SOCIAL SCIENCES**

WHAT JUSTIFIES CIVIL DISOBEDIENCE?

M.A. THESIS

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Political Studies Department

Political Studies M.A. Programme

JUNE 2019

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İSTANBUL TEKNİK ÜNİVERSİTESİ ★ SOSYAL BİLİMLER ENSTİTÜSÜ

SİVİL İTAATSİZLİĞİ NE MEŞRU KILAR?

YÜKSEK LİSANS TEZİ

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To those who have been struggling for human dignity,

FOREWORD

I would like to thank my advisor Prof. Dr. Gürcan Koçan for his precious guidance and support throughout this thesis.

I would like to express my sincere thanks to my family for their understanding and apologize to them for having neglect them for a while and also for making them put up with my impatience.

Finally, i would like to pay my respect to Socrates, Thoreau, King, Arendt and those who have been struggling for human dignity.

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Ahmet Bilal Kuru

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WHAT JUSTIFIES CIVIL DISOBEDIENCE?

SUMMARY

This thesis aims to show that civil disobedience should be justifiable. More precisely, civil disobedience should be justifiable, because it can be illegal, but also can be morally right and just. The paper is divided into five chapters. Civil disobedience is a continuously changing and contested concept, so the first chapter analyzes the various conceptualizations of the concept. At the analysis of various conceptualizations, five main axes and eleven constituents come into prominence. Thinkers which are analyzed in the third chapter argue that it would be immoral to disobey the laws, morality requires obedience to laws. In contrast to this view in the fourth chapter the paper analyzes the justifications of civil disobedience. In various contexts, it would be immoral to obey the laws, morality requires disobedience. The fourth chapter analyzes the normative dimension of the concept into three sections. These three sections analyze the arguments that consider civil disobedience as a moral principle, as a moral value and as a practice of virtue. In the last chapter, the paper argues that we need a civil disobedience concept, so we should not marginalize it. The paper underlines that there is nothing valuable neither in obedience nor in disobedience to laws per se. Not only disobedience to law, but also obedience to law equally need justification. Because, in various contexts, it is immoral to obey laws, and moral to disobey laws. Overall, this paper argues that civil disobedience can be undertaken as a moral principle, as a moral value and practice of virtue. On the other hand, it is politically justified to overcome democratic deficits. In this context, civil disobedience is not only tolerable, but also praise-worthy.

SİVİL İTAATSİZLİĞİ NE HAKLILAŞTIRIR?

ÖZET

Bu tez sivil itaatsizliğin meşrulaştırılabileceğini savunmaktadır. Sivil itaatsizlik illegal olabilir, fakat aynı zamanda ahlaki açıdan doğru ve haklı da olabilir. Tez beş bölümden oluşuyor. Sivil itaatsizlik sürekli değişen ve tartışılan bir kavram olduğu için, ilk bölüm sivil itaatsizliğin farklı kavramsallaştırılmalarını analiz ediyor. Bu analiz sırasında, beş ana tartışma eksenini ve on bir bileşen ön plana çıkıyor. Üçüncü bölümde analiz edilen düşüncüler, yasalara uymamanın gayriahlaki olduğunu, ahlakın yasalara uymayı gerektirdiğini savunuyor. Bu görüşlere karşıt olarak dördüncü bölüm sivil itaatsizliğin gerekçelendirilmesini analiz ediyor. Farklı bağlamlarda, yasalara uymak gayriahlaki, uymamak ise ahlaki olabilir. Dördüncü bölüm, kavramın normatif boyutunu üç kısımda inceliyor. İlk kısım sivil itaatsizliği ahlak prensibi, ikinci kısım ahlaki değer, üçüncü kısım ise bir erdem pratiği olarak analiz ediyor. Son bölüm sivil itaatsizliğe ihtiyacımız olduğunu, bu sebeple marjinalleştirmemiz gerektiğini savunuyor. Tez, ne yasalara uymada ne de yasalara uymamada kendinden gelen bir değer olmadığını savunuyor. Çünkü, ikisi de eşit olarak gerekçelendirmeye ihtiyaç duyar. Öte yandan, tez yasaların sadece araçsal değeri varken, insanların kendinden gelen bir değeri olduğunu altını çiziyor. Sonuç olarak, tez sivil itaatsizliğe ahlak prensibi, ahlak değeri ya da erdem pratiği olarak başvurulabileceğini savunuyor. Öte yandan, politik açıdan da, demokrasiyle ilgili sorunların giderilmesindeki araçsal önemini ön plana çıkartıyor. Bu açıdan, bazı durumlarda sivil itaatsizlik hoşgörülebilir ve ahlakidir.

1. INTRODUCTION

This thesis defends that, under various circumstances, it is immoral to obey the law, and it is moral to disobey the law. More precisely, civil disobedience should be justifiable, because it can be illegal, but also can be morally right and just. The kind of disobedience I analyze in this thesis is not one that aim to overthrow the state or regime, but one that aims to make a change or reform at specific law according to various moral values and principles which are not selfish, but self-interested demands.

Concept has descriptive and normative dimensions. So, paper is divided into five chapter. While first two chapters analyze the descriptive dimension, third and fourth chapters analyze the normative dimension of the concept. At the last chapter, i offer my criticism of arguments which refuse concept of civil disobedience, and do not justify it neither legally nor morally. Later, i offer my justification, and try to show why we need concept of civil disobedience.

First chapter analyzes the meaning of civil disobedience. There is no single conceptualization of civil disobedience. Because, thinkers have different understanding of the concept. They highlight some constituents of civil disobedience to differ it from ordinary breach of law and consider them not only necessary but also sufficient condition. Their explanations help us to understand the concept to critically engage with it. I underline that civil disobedience is continuously changing and contested concept. At the analyzes of various conceptualization, five main axis's and eleven constituents comes into prominence. They show the lines of disagreement about descriptive dimension. Eleven constituents have come into prominence at the analyze of the conceptualization of the concept. Paper shows that different combinations of the features are offered for breach of law's being civil disobedience. More precisely, there are numerous combinations of these constituents which are attributed to civil disobedience, according to different times, geographies and states. There are numerous different conceptualizations of the concept, but important point is not to find the best conceptualization, but to be able to think about the concept in terms of different dimensions. As a reflection to these fundamental constituents' explanations, i argue

that some of them are necessary features of the concept, and i offers my explanations of these constituents.

What differ civil disobedience from ordinary law breaking is its fidelity to law, it is not free riding, but it is a demand for a change or reform according to various moral values and principles. Civil disobedience is breach of law, it is open, conscious, non-violent, done with the aim of bringing about a change in the law or policies of the government according to not selfish demands but universalizable principles.

Second chapter analyzes these constituents more precisely, according to different point of views. There are disagreements not only about constituents of civil disobedience, but also the actual meanings of these constituents. Because, even thinkers agree on “x” constituent, their explanations of this “x” constituent are different. So, at this chapter paper tries to make explicit thinkers’ different explanation of eleven fundamental constituent. Paper also offers some counter examples which thinkers give to expand horizons about the possible different meanings of the constituents.

Third chapter focuses on criticism of disobedience to law. More precisely, various thinkers refuse civil disobedience concept. They argue that it would be immoral to disobey the laws, morality requires obedience to laws. At the first to chapter, thinkers attributed various constituents to civil disobedience as pre-conditions for justifications of civil disobedience. On the other hand, at this chapter thinkers refuse even these pre-conditions and do not justify civil disobedience neither legally nor morally in any circumstances. So, at this chapter paper analyzes different arguments which show that why disobedience to law is unacceptable. When we look at how do thinkers reach that conclusion, we find some arguments: Firstly, there is essence of law argument: law that exist is a just law, so, it is morally and legally unacceptable to disobey laws. Law is equally applied to all citizens. Secondly, paper also analyze three main social contract traditions Biblical Covenant, Hobbesian Model and Locke model to make explicit argumentations of consent theories. Thirdly, there is utilitarian argumentation: by breaking the law always greater wrong is done. They argue that remedy would be worse off than the evil. More precisely, unjust law is better than lawlessness at all. Fourthly, there is fair play argument: just because if one benefit from the goodness produced by obedience of members of the political society, but refuse to obey law, then he acts unfairly to the members of the society. Lastly, there is also gratitude

arguments: it means that just because citizen benefits from the state, one also has an obligation towards it.

Fourth chapter analyzes the different justifications of civil disobedience. I underline crucial point of the topic, thinkers offer various moral values, justified claims just because they believe that law and ethics are distinct, in the first place. More precisely, thinkers which is analyzed at the third chapter argues that it would be immoral to disobey the laws, morality requires obedience to laws. In contrast to this view fourth chapter analyzes the views that in some circumstances it is immoral to obey the laws, morality requires disobedience in different contexts.

More precisely, chapter analyzes the normative dimension of the concept into three sections. These three sections analyze the arguments that consider civil disobedience as a moral principle, as a moral value and as a practice of virtue. Thinkers offers various moral values and principles to justify civil disobedience at different contexts. More precisely, thinkers praise different moral values to underline concept's instrumental value to justify it. In other words, civil disobedience itself has no moral value, nobody undertakes it for the sake of civil disobedience itself. But individuals undertake and use it as an instrument, for different values, these are: justice, autonomy, democracy and common interest. We have to be aware of the fact that, thinkers not only praise different values, but also justify civil disobedience according to different ethical principles: utilitarian, duty and virtue ethics. So, paper not only illustrates the praised values, but also makes explicit thinkers' principles. On the other hand, each justification not only explicitly criticize the overriding value of obedience to law, but also criticizes various other thinkers who cannot adequately justify disobedience to law.

Chapter analyzes justifications into three main categories: civil disobedience as a moral principle, civil disobedience as a moral value and civil disobedience as a practice of virtue. More precisely, at the first section, thinkers consider civil disobedience as a moral principle. While Thoreau (1849), King (1963) and Bedau (1968) underlines justice; Raz (1979) and Morreall (1991) praise autonomy. At the second section, and thinkers consider civil disobedience as a moral value. While Arendt (1972) and Markowitz (2005) emphasize politics and democracy, Dworkin (1977) indicate

common interest. At the third section, Moraro (2010) indicates importance of respect to autonomy of fellow citizens and consider civil disobedience as a practice of virtue.

At the last chapter, i offer my justification of civil disobedience. I accept all the moral justifications, because all of them are reasonable. On the other hand, i want to underline another point apart from the moral justifications of the individuals, it has various influences on every dimension of politics. So, it also has political justification. We need a concept of civil disobedience; we should not reject civil disobedience concept or marginalize it. Because, the way society treats and defines its opponents says a lot about the nature of power in that society. Civil disobedience represents the belief that we are capable of establishing democratic government. More precisely, i argue that governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. Using violence against opponents and punishing only cause further democratic deficit and legitimacy problems.

I claim that civil disobedience is sometimes not only permissible but also praise-worthy. Civil disobedience is praise-worthy because, good citizens sometimes disobeys the laws. Good citizen is who respect another citizens' autonomy. Autonomy is the condition of choosing her conception of good life. Democracy is valuable just because it protects and advance autonomy of its subjects. In this context, paper argues that there is nothing valuable neither in obedience nor in disobedience to political authority per se. Laws have only instrumental value, while individuals and their autonomies have intrinsic value.

Overall, civil disobedience can be justified not only morally but also politically. According to moral justifications civil disobedience can be undertaken as a moral principle, as a moral value and practice of virtue. On the other hand, politically it has instrumental, positive role to overcome democratic deficits. In this context, civil disobedience is not only tolerable, but also praise-worthy. Because, obedience to law is immoral and disobedience to law is moral, in various circumstances.

2. CONCEPTUALIZATION OF CIVIL DISOBEDIENCE

This chapter analyzes the meaning of civil disobedience. There is no single conceptualization of civil disobedience. Because, thinkers such as Socrates, Henry David Thoreau, Martin Luther King, Harrop Freeman, Hugo Adam Bedau, John Rawls, Hannah Arendt, John Morreall, Ronald Dworkin, Joseph Raz, Daniel Markovits and David Lefkowitz have different understanding of the concept. They highlighted some constituents of civil disobedience and consider them not only necessary but also sufficient condition. Their explanations help us to understand the concept to critically engage with it.

This chapter is divided into two sections, at the first section we find an assumption, civil disobedience is contested concept. In the second section, we find a brief literature review within main axis' about the concept, paper offers some conceptualizations of civil disobedience. Thinkers define the concept inversely, because they have different perspectives and explanations of the concept. They differ civil disobedience from ordinary law breaking according to some constituents. As we find out after the analyze, there are not only shared features but also changes between the understanding and conceptualization of civil disobedience. Actually, there are differences more than shared features at their political, practical and ethical manners. Paper aims not only to highlight these differences, but also praise some fundamental constituents of civil disobedience.

Accepting civil disobedience as a disputed concept does not mean everything goes on. What differ civil disobedience from ordinary law breaking is its fidelity to law, it is not free riding, but it is a demand for a change or reform according to some ethical standards. Civil disobedience is breach of law, it is open, conscious, non-violent, done with the aim of bringing about a change in the law or policies of the government according to not selfish demands but universalizable principles.

Civil disobedience has two dimensions: descriptive and normative. We must keep in mind that, during the analyzing of the conceptualization of the concept, it is nearly impossible to differentiate descriptive dimension from normative one. So, after

analyzing of conceptualization of the concept, we analyze the normative dimension at the third chapter.

There is no single meaning of civil disobedience, because thinkers have different understanding of the concept. Paper analyze these understandings and argues that some fundamental constituents come into prominence at the conceptualization of the concept. So, paper listed and explain them. More precisely, there are numerous combinations of these constituents which are attributed to civil disobedience, according to different times, geographies and states. As a reflection to these fundamental constituents' explanations, author argues that some of them are necessary features of the concept and offers his explanations of these constituents. At the second chapter, paper analyze these constituents more precisely, according to different point of views.

2.1 What is Civil Disobedience?

W.B. Gallie argues that concepts are contested. According to him, there can be respectable different arguments and evidences about the definition of concept and none of the explanation need to be the correct one As, he himself puts it: “there are some concepts which inevitably involves endless disputes about their proper uses on the part of their users” (Gallie, W.B., 1956, p. 169). Gallie aims to raise awareness, recognition of “contested concept” means that one uses it against other uses. Recognition of other uses of concepts, not only implies maintaining his argument, but also critical thinking for his arguments, too.

More precisely, accepting the civil disobedience as a contested concept means that:

- First of all, paper offers, group of thinkers who disagreeing about the proper definition, use of the civil disobedience.
- There are no clear, undisputed general use of the concept which can be set up as the proper, standard usage.
- Even, after paper highlights the variety shared features, and offer some fundamental features, disputes about their proper meanings are also debated. So, disputes about the concept persist.

- But, these disputes “are perfectly genuine, and although, not resolvable by argument of any kind, are nevertheless sustained by perfectly, respectable arguments and evidence” (Gallie, 1956, p. 169).
- We cannot escape from controversial concepts. But we may deal with them. Paper offers some constituents which help us to make sense of why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it.

Even one does not change his mind, after recognition of rival use of concept, one can re-construct his argument to be able to maintain his position even for the new horizon. So, we find out and analyze civil disobedience instrumental and intrinsic value, in details. John Gray also underlines the same point by referring to “interminable conceptual enrichment through maintaining permanent dialogue” (John N. Gray, 1977, p. 335). Accepting civil disobedience as contested concept means that one has his own conceptualization of civil disobedience, but also being aware of other possible proper uses of it. So, it means that one uses its own conceptualization both aggressively and defensively. If paper able to bring different conceptualization to light, we may become aware of the disagreements about its descriptive dimension.

According to users’ time and geography they describe civil disobedience inversely. There are differences between at civil disobedience understandings of Socrates, Henry David Thoreau, Martin Luther King, Harrop Freeman, Hugo Adam Bedau, John Rawls, Hannah Arendt, John Morreall, Ronald Dworkin, Joseph Raz, Daniel Markovits and David Lefkowitz. Actually, there are differences more than shared features at their political, practical and ethical manners. Main similarity between them is their contradiction with authorities of their time and geography, they disobey the laws according to their justified claims. This is the starting point of this paper, paper take granted that they have justified claim, good reason to disobey the laws.

Main problem about the concept is to differ civil disobedience from ordinary law breaking. Thinkers use some fundamental constituents to differ civil disobedience from ordinary law breaking. To be able to do that, thinkers must construct their conceptualization on same debated elements of the concept. In other words, they have different perspectives about same constituents (which are attributed by thinkers) of civil disobedience. There may be other possible definitions of civil disobedience, in

which case the model might have to be extended more sides. But, general disputes about the topic are about these fundamental elements which are related to descriptive and normative dimensions of the concept.

As we can see some thinkers argue that some constituents of civil disobedience are essential to it. The essence of civil disobedience is conceived as the totality of its essential properties. Arguing that a constituent openness is essential to civil disobedience concept is to say that “civil disobedience has openness” is necessarily true. In other words, some argues that some properties are essential to civil disobedience and cannot lack even one constituent to be. Thinkers qualify many different ways in which breach of laws might qualify as a civil disobedience. Paper shows that different combinations of the features that are listed above, offered for breach of law’s being civil disobedience. On the other hand, we also must be aware of that, there is no clear distinction between these properties of the concept. More precisely, while one accepts openness as an essential feature of civil disobedience, then one may link it to aim to communicate, publicity, ready for self-sacrifice, ready to punishment, or considering openness as a tactic to mobilize people. For example, if one accepts openness as an essential feature of civil disobedience, it may mean that one wants to appeal to public conscious, so it is communicative. Just because it aims to communicate, so, it can’t be violent. In other words, it should aim persuasion rather than coercion. There are numerous linkage and combination between these properties. This point is analyzed more precisely at the second chapter.

Paper aims to list some constituents which are praised by thinkers by analyzing literature. But, first of all there is important point to keep in mind: These features are based on main axis’s about the concept. There is no clear distinction between controversies, they are gifted and inter-related. Because they not only represent descriptive dimension but also normative dimension. At this section we analyze the contests about main axis’s of the concept, and list different descriptions of the concepts according to different thinkers. Every description has some hidden premises and argumentations which grounds on needs of their times. Thinkers try to find how the concept can be best improved. They see and explain, no more than they have been conditioned to see. More precisely, there is acceptance of punishment constituent, just because there is an axis about appropriate legal response to civil disobedience. Thinkers try to construct a descriptive dimension of civil disobedience to differ it from

ordinary breach of law, so they construct descriptive dimension, and attribute some feature to the concept according to axis's which already exist about the nature of civil disobedience concept. And their descriptions of the concept not only help us to understand the concept, but also offer some hidden and explicit premises which are about the normative dimension of the concept to study at the next chapter. After analyzing of conceptualization of the concept according to different thinkers, paper aims to list some fundamental constituents as much as possible and offer a definition as a reflection to these argumentations.

There are five main axis's about civil disobedience. Axes show the lines of disagreement. First axis is "Is it individualistic or collective?", second is: "Is it violent or non-violent?", third is: "is it right or obligation?", fourth is: "is it about justice or constitutionality of law?", and lastly: "what is the appropriate legal response?". These axis's were offered to illustrate debated nature of the concept and make readers ready to different explanations of the concept at the literature review. So, the explanations of axis's are narrower than the explanations of the constituents at the second chapter, axis's can be considered as introduction before precise analyze of controversies about fundamental constituents of the concept.

First axis is whether it is individualistic or collective. Some differ civil disobedience from conscientious objection. They argue that there are two different purposes in the first place. While conscientious objector aims private exemption, in other words handwashing from the unjust laws; civil disobedient aim to raise awareness and make a change at the unjust law. For example, Arendt consider Thoreau's case as conscientious objection rather than civil disobedience. Second group argues that civil disobedience is not for personal gain, personal exemption, but it aims to furthering the cause of justice rather than selfish demands. Related to this point, there is controversial point: can it appeal to principle of personal morality or to religious doctrines, which means minority groups may have demands according to their ethical standards (Welchman, 2001) or it only should appeal to shared conception of justice which constitution is grounds on (Rawls, 1971).

More precisely, Henry David Thoreau's main argument is personal withdraw of the consent from unjust law. Although, he is the first one who use "civil disobedience" term at the literature, some thinkers do not consider his case as a civil disobedience

because of its individuality and not aiming to change at the law. He refused to pay his taxes which is used on unjust law at Mexican War. He considered state as a machine, and himself as a cog in the machine, so if he withdraws his consent by refusing to pay his taxes, then he expected that the machine would be broken. He did not do it as an open protest to make a change at the specific law, by appealing the conscious of the masses. The conscientious refusal represents that breach of law motivated by the individual's assumption that one is morally prohibited to follow specific law because law is unjust according to his ethical standards. Consider the case, although Thoreau invented the civil disobedience concept, most of the contemporary thinkers such as Arendt and Rawls, do not consider his case as a civil disobedience but conscientious refusal. Because, non-payment of the tax should not be public, or collective it is individual refusal, also he does not wish to be arrested. While living in his cabin outside of the city, tax-gatherer come to his home, Thoreau refused to pay tax just because he did not want to help finance the US war with Mexico which also about the extension of the slavery. So, he did not openly disobey and appeals to shared conception of justice, but refuse to be part of the unjust, when state demand his support.

More precisely, some argues that conscientious illegality is much wider concept than civil disobedience, such as Rawls, Bedau, Arendt, Smart. Consider the case, one may continue to practice his religion practices privately even though, he clearly knows that these practices have been banned. In other words, he chooses to ignore the fact that these practices are banned, but do not have any intention to persuade community that the ban should be lifted. He has no audience, spectators. So, it means that just because his action is lack of audiences, ergo it is not civil disobedience. At this point we can refer to Bertrand Russell's definition of civil disobedience who clearly underlines the point: "as a method of causing people to know the perils to which the world is exposed and in persuading them to join us in opposing" (Russell, 1969, 139). So, openness used not only as a opposite of hidden, secret, but also thinkers highlighted its instrumental value, it is open, because it demands communication to persuade others for a change at the unjust law.

On the other hand, Hannah Arendt argues that we must find not only moral but also legal justification of civil disobedience. Because of that, her understanding of civil disobedience is very narrowed. First of all, she thinks that civil disobedience is unique for USA. Secondly, she criticizes individual who break the law to test its

constitutionality. Thirdly she distinguishes civil disobedience from conscientious objector. Conscientious objector refers to individual conscience or individual acts to justify their disobedience, but these higher laws be it secular or transcendent poor when applied to the concept (Arendt, 1972, p. 54). So, Arendt do not consider Thoreau' dissent as a civil disobedience, for common opinions and actions are needed to undertake civil disobedience. She also argues that Socrates never tries to challenge the laws itself, he has a problem not with laws, but with miscarriage of justice, its unjust application. On the other hand, according to her, Thoreau made the term "civil disobedience", most of the thinkers share the same ideas, just because of the name of the Thoreau' text "*On the Duty of Civil Disobedience*" Arendt points out very crucial point, Thoreau does not refer to citizen's moral and law contradiction, but refers to another relation, individual conscience and conscience's moral obligation (Arendt, 1972, p. 60). To conclude, she differs conscientious refusal from civil disobedience. Civil disobedience should aim to mobilize people and make a change at the specific law. According to her civil disobedience is the latest form of voluntary association, which is the oldest tradition of the country (Arendt, 1972, p. 96). She also argues that, strength of opinion does not depend on conscience, but on the number of those who shares it, because it becomes an opinion rather than individual conscience, unlike Thoreau and Socrates cases (Arendt, 1972, p. 67). To conclude, according to Arendt, the establishment of civil disobedience among one of the political institutions of USA might be the best possible remedy. First step should be the legal recognition for the dissenters with the special interest groups, registered as lobbyist. So, civil disobedience groups have a permission, a qualified opinion, to influence and assist Congress by means of persuasion (Arendt, 1972, p. 101).

On the other hand, although Bedau and Rawls argues that conscientious objector, do not have expectations from others, actually Thoreau have expectations. He criticizes the Abolitionists who do nothing, but only vote to right to prevail (Thoreau, 1986, p. 397). We should aware of the fact that, even Thoreau do not try to communicate with others, and mobilize people, he actually has an expectation. On the other hand, Rawls is also aware of the fact that these categorizations are grey areas and disputed. He also argues that there is no clear distinction between them (Rawls, 1971, p. 326). As, paper underlined as the beginning, these features are inter-related and gifted.

Second axis is whether it can be violent or not. One of the most controversial issue about civil disobedience subject is violence. Can one justify use of violence at civil disobedience or not? Some make negative definition, and de-justify violence and use violence to differ civil disobedience from revolution. On the other hand, some justify civil disobedience just because authorities use violence on individuals to coerce them. According to second interpretation, just because authorities oppressed their autonomy, they are justified to use violence too, vice versa. But brief literature review and giving specific examples is not enough to analyze the problem in detail. Because, you must study on violence concept firstly, what is violence, what are its types, is it justified or not? If it is justified, under what conditions can one use violence? These are some of the questions that must be answered at the second chapter. But important point is that, some thinkers use using violence as a defining feature of civil disobedience. In other words, for them non-violence is not only necessary but also sufficient condition, and they differ civil disobedience conducts from revolutions by only looking whether it is violent or not.

Not-violent means civil disobedience should not apply to any kind of violence, not using violence as a means. There are controversies not only on justification of violence but also what is the definition and types of the violence, in the first place. There is also difference between justification of violence to persons or properties. This point is analyzed at the second chapter more precisely. For example, Morreall (1976) justifies violent civil disobedience (violence for justified ends, -destruction of draft files during Vietnam War), while Rawls (1971), Bedau (1968) consider non-violence as a defining feature of civil disobedience. Also, some try to show that it is a grey area, by underlining that various non-violence (Raz, 1979, p. 267).

More precisely, John Rawls claims that civil disobedience should be nonviolent. It is not accepted by every thinker, so this constituent is a debated one. But according to Rawls, civil disobedience should be acted by civil persons, who do not use violence. At the beginning he also underlines the same point, militant resistance and violent protest cannot be considered as civil disobedience and cannot be justified. Later he relates first to feature with fidelity to law. If one act civil disobedience openly and non-violently he also shows that his fidelity to the laws. If we remember our first three cases, their most important common feature is their fidelity to the laws (Rawls, 1971, p. 323).

On the other hand, John Morreall, mainly criticizes those who do not justify civil disobedience, especially Bedau who as we saw considers civil disobedience nonviolent by definition. More precisely, first of all Morreall tries to show that there is no single undisputed definition of civil disobedience. So, he constructs his argument on different possible definition of the violence to justify violent civil disobedience. Morreall argues that people mostly tend to think about instances that physical force being used, but there may some acts of violence which no physical contract is made. According to Morreall, the founder of the term “civil disobedience” is Thoreau and he did not consider nonviolence as a necessary feature of the term (Morreall, 1976, pp. 35-42).

Third axis is about justification of civil disobedience. Is civil disobedience a right or obligation? Some thinkers, such as Rawls (1971) and Raz (1979) argues that there is not only right but also duty to civil disobedience at some situations and regimes. On the other hand, while King argues civil disobedience should be an option as a last resort to not obey unjust laws to show human dignity, and civil disobedience intrinsic value. Arendt (1972) argues not only moral justification but also legal justification of civil disobedience, which represent concept’ instrumental value to overcome democratic deficit.

Thoreau’s one of the most controversial argument is his refusal of prime facie obligation to obey the laws. Thoreau was the first thinker who use “civil disobedience” concept. He not only refuses obligations toward state, but also criticizes people who keeps silent against unjust laws and policies. He underlines a point, even there are numerable citizens who are opposed to slavery and unjust war, do nothing to stop it (Thoreau, 1849, p. 5). He not only disobeys the law and refuse to pay taxes, to not fund unjust war at Mexico, but also expects from others to do the same disobedience. He argues that only voting to change things is null (Thoreau, 1849, p. 6). Simply, he argues that just because majority won the election does not mean they can oppress minority to act as they wish. So, he puts his conscious above not only law but also rule of majority and refuse to fund unjust war at Mexico.

Moreover, King argues that, after all feasible negotiations failed, civil disobedience become an obligation, because it is morally wrong to obey unjust laws. Unlike Thoreau, King lists the conditions which can be considered as first theorizing or justifying conditions of nonviolent campaign. Before King, we can only see some

ethical standards, and reasoning to act. But King, creates kind of principles and they have great influence at current theoretical literature. According to him: “In any nonviolent campaign there are four basic steps: (1) Collection of the facts to determine whether injustices are alive. (2) Negotiation. (3) Self-purification and (4) Direct Action” (King, 1963, p. 1). He argues that African American society gone through all these steps. In other words, they tried every legal way and finally, as a last resort now it is time for direct action, civil disobedience.

On the other hand, Hugo Adam Bedau contribute to the topic by “personal responsibility for injustice” term. More precisely, he argues that it is nearly impossible to differ descriptive dimension from normative one. Because, Bedau argues that, there are two problems about civil disobedience, its justification and definition. Problems arises just because of a duality in the conception of the purpose of civil disobedience. According to him, dissenters either to prevent some laws or policies which they thought unjust, or in order to protest the operation of some unjust law or policy. Dissenters who want to prevent the unjust laws or policies undertake “direct resistance”, while dissenters who want to protest undertake “indirect resistance” (Bedau, 1968, p. 518). He states that the cause of this distinction is purpose of the protest had come under attack by some. So, Bedau tries to explicit hidden assumption of Griswold¹ and Fortas. To make a clear, they are important, because they are one of the highest rank officials during Civil Right Movement and Vietnam War Protest. Mr. Erwin Griswold concluded that “it is illicit to violate otherwise valid laws either as a symbol of protest or in the course of protest” (Griswold, 1968, p. 726). Mr. Fortas agreed, and claims that “civil disobedience is never justified in our nation where the law being violated is not itself the focus or target of the protest. The law violation is excused only if the law which is violated itself is unconstitutional or invalid” (Fortas, 1968, p. 62).

As paper underlines at the beginning, civil disobedience is open-texture and debated concept, and its definition it changes by time and geography. So, thanks to civil right movement raise of awareness on the topic, not only thinkers but also state officials construct arguments. This contradiction draws different boundaries to civil disobedience. More precisely, state officials try to limit definition of civil

¹ Griswold served as Solicitor General of the United States (1967–1973) under Presidents Lyndon B. Johnson and Richard M. Nixon.

disobedience, and relate it with its possible justification, invalidity of the law (unconstitutional) which we saw at the civil right movement. Because, they have leading case, King and his friends achieve their demands by supreme court decision thanks to open, non-violent, conscious appeal to the public and authorities; in other words, civil disobedience. So, Hugo Adam Bedau, tries to make explicit state officials' possible hidden assumptions. They are public figures and officials, they have arguments about civil disobedience, but according to Bedau, they never explicit how do they reach their conclusion. So, Bedau tries to find arguments which they may thought. They may think that First Amendment only protect status of "speech" but not acts. Breaking the law is not same with protesting it. So, even at the end, they prove the invalidity or unconstitutionality of the law, there is another fact, they have already broken the law. But, invalidity or unconstitutionality of the law cannot be excuse. Civil disobedience is not dissent, but act of a rebellion. Rebellion cannot be justified. Civil disobedience causes social chaos. If dissenters want to be educative, and try to communicate with others, they should not undertake civil disobedience. Civil disobedience purpose is to raise awareness on link between dissenter and who suffers from injustice, but indirect civil disobedience cannot enable this link at all.

Simply, while state officials Fortas and Griswold argues that, the only person who could commit civil disobedience is who directly involved injustice. Bedau argues that this would limit the class of civil disobedient into two group: "Those who are direct victims of injustice (slaves, Indians or African Americans). Or those who are direct agents of injustice (Soldiers, Police)" (Bedau, 1991, p. 53).

For officials' argumentation civil disobedience description is so limited. Majority of the people cannot commit civil disobedience. They only became ordinary law breakers, because they are neither victims nor the agents of the injustice. But, after this brief description Bedau tries to enlarge the definition and justification by his term "personal responsibility for injustice". Bedau accepts Thoreau's withdraw of consent and refuse of tax payment as a civil disobedience. Also, link Thoreau's arguments with his definition and justification of civil disobedience, which can be used at his time. To conclude, paradigm cases of civil disobedience according to him are: "Illegal, committed openly, non-violently, conscientiously, within the framework of law, with the intention of frustrating or protesting some law, policy or decision of the government" (Bedau, 1968, p. 519).

Furthermore, John Rawls' definition of civil disobedience is: "a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government" (Rawls, 1971, p. 320) He also underlines the point that there can be other definitions of civil disobedience, but he concerned with the most narrowed one. He also adds that at the footnote, this definition is narrower even Thoreau's whose used the term civil disobedience for first time.

Moreover, Joseph Raz argues that there are two kinds of states: liberal and illiberal. He differs them according to their recognition of liberal principle and protection of it by laws. As he himself puts it, "there is right to civil disobedience in illiberal states, but there is no such a right at liberal states" (Raz, 1979, 262). In other words, he argues that just because there, liberal principle is not recognized and protected by laws, individuals have right to undertake civil disobedience at illiberal states. He also makes a distinction between "revolutionary disobedience", "civil disobedience" and "conscientious objection". Firstly, revolutionary disobedience aims to change government or constitutional arrangements. Secondly, civil disobedience aims to change of law or a public policy to show one disapproval and protest unjust. Thirdly, conscientious objector is an agent who is morally prohibited, so cannot obey the law. (Raz, 1979, p. 263). Raz define civil disobedience as: "politically motivated breach of law designed either to contribute directly to a change of a law or of a public policy or to express one's protest against, and dissociation from, a law or a public policy" (Raz, 1979, p. 263).

Furthermore, people may disapprove the law, but then kept their disapproval quiet. Because, they may be afraid of public criticism, or punishment of the law. But sometimes, quiet disapproval, or hidden disobedience may turn civil disobedience, and people start to disobey the law as a last resort, openly not secretly, non-violently, not for a personal gain. In other words, they are ready to pay the price for acting according to their ethical standards, rather than unjust law. So, as we see at the civil right movement, there is a special purpose of the civil disobedience: they change the law, by making an appeal to the conscience of the public and authorities who support and created that specific unjust law. So, disapproval become civil disobedience when it done openly to change at the law as a political act.

Fourth axis is, does civil disobedience questions laws according to their morality or according to their constitutionality? Briefly, for example, Dworkin (1977) praise the instrumental value of civil disobedience and argues that we can overcome democratic deficit by questioning constitutionality of the law. In contrast, Arendt (1972) criticize individualistic questioning of the validity. On the other hand, Thoreau, King and Rawls justifies the disobedience according to its moral value, which represent human dignity.

When we look at the current literature, thinkers mainly focus on the legal justifications of civil disobedience, just because they think that Socrates, Thoreau and King cases make obvious that civil disobedience can be right and just, while authorities and law wrong and unjust. Also, there are some who focus on validity, constitutionality of the law, in that case the one who we consider as civil disobedient – just because of his refusal to obey law- can show prove that the law which he disobeyed is invalid, unconstitutional in the first place. So, just because one disobeys the unconstitutional law, there is no crime, so no disobedience. On the other hand, some obsessed with some specific features, and consider them as a defining feature to differ civil disobedience from revolution or conscientious objection. They simply argue that, disobedience just for personal handwashing from the unjust law is conscientious objection and using violence turn civil disobedience into revolution. So, as we underline at the beginning, definition of civil disobedience and its justification are not completely separate. Because, thinkers construct their justification according to their definitions which are described and limited for special purposes, to underline their special interpretation.

Harrop Freeman defines civil disobedience as: “civil disobedience is a recognized procedure for challenging law or policy and obtaining court determination of the validity” (Freeman, 1965, 235). He also adds that it should be non-violent. It should be under protection of the First Amendment. So, punishment of civil disobedience should be minimal. Briefly, Freeman try to find a legal recognition for civil disobedience thanks to First Amendment.

Furthermore, according to Rawls, individual cannot appeal to principle of personal morality. It would mean that he focuses on his own self-interest, civil disobedience should appeal to the shared conception of justice which is constitution and state constructed on. This point is criticized by other thinkers mostly as we find at next

pages. To turn back to the features of civil disobedience according to Rawls, first feature is public act. It means not only it should be done in public but also it should apply public principles. One of the most accepted features of civil disobedience among thinkers is it should be open with fair notice, not secretly or covertly. Because, if one has a problem with the justice of laws, one openly declares his ethical principles and show why certain laws is whether morally wrong, unjust or legally invalid according to constitution.

On the other hand, Ronald Dworkin has a chance to construct his arguments against Erwin Griswold even they have different conclusions about justification of civil disobedience. Dworkin tries to show that validity of law may be doubtful, so civil disobedience can be used to test the validity of law. In that case, civil disobedience gets its moral right through testing legality of the law, if it is constitutional or not, rather than criticize law according to different ethical standards (Dworkin, 1977, p. 208).

On the other hand, Daniel Markowitz expands the horizons about civil disobedience concepts. We can begin with his different use of the concept, he prefers “political disobedience” rather than “civil disobedience”, because he emphasizes connections to political theory that he wants to elaborate (Markovits, 2005, p. 1898). According to him, first condition to have democratic sovereignty is to believe in its inevitable democratic deficit by occasions. So, democratic political authority suffers, just because of its own features, has a deficit inevitably, so this deficit opens door to political disobedience. Thirdly, we must be aware of the fact that, most of the thinkers refer to the judicial review, because courts drawn the limits of democracy by protecting fundamental rights, which is also undemocratic political practice. Markovits tries to create an alternative approach, political disobedience can enhance the democracy even no rights are at stake. So, these assumptions open space for political disobedience. More precisely, he wants to use civil disobedience same as we use judicial review nowadays (Markovits, 2005, p. 1904).

Moreover, according to David Lefkowitz: “Civil disobedience, consists in deliberate disobedience to one or more laws of a state for the purpose of advocating a change to that state’s laws or policies” (Lefkowitz, 2007, p. 117). So, he highlighted the deliberation of civil disobedience, and praise the instrumental dimension. On the other

hand, Lawrence Quill underlines another point: “when political administrations engage in activities that are illegal by international standards, citizens may invoke international law against their own governments. Hence, a person is entitled to commit an ordinary crime in order to prevent a greater public harm” (Quill, 2009, p. 12). Lastly, Tony Milligan underlines that even agents have different religions, ethics they find a way to live together and have a say (Milligan, 2013, p. 18).

Fifth axis is, what kind of legal response to civil disobedience is appropriate? This element means that law is broken but, individuals show their fidelity to law by accepting the legal punishment of breach of law. In other words, civil disobedient show that he is ready to pay the price to convince others on certain principles.

One of the most important critics against civil disobedience at the literature is greater evil arguments. Some do not justify civil disobedience, simply they believe that remedy would be worse off than the evil. More precisely, unjust law is better than lawlessness at all. Every act of refusal to obey laws cannot be tolerated, whether it is morally justified or not. But according to Thoreau, greater evil is a lie (Thoreau, 1849, p. 8). He also, uses same argument to criticize imprisonment of disobedient. He was jailed just because of his disobedience, but he was also ready to do it.

King and his friends intentionally use accepting the punishment as a tactic. They refuse to obey segregation law, and intentionally wanted to be prisoned. More precisely, at some cases even they have a chance to be free by only paying the bills, they refuse to pay bill, which is unjust, they want to get prisoned. “Jail, no bail” was a famous slogan of civil disobedience at that days. If they pay the bail and release it would not mean anything. Their accepting of the punishment is a kind of self-sacrifice. Thanks to this tactic they raise awareness and mobilize people to change at the unjust segregation laws. According to him they must create tension which make negotiation possible. Otherwise, white community does not care about their equality demand. He uses familiar example which was also used by Socrates. According to him just as Socrates consider himself as gadfly who creates tension at the society, he also uses the same method to help his society and show that segregation laws are unjust. In other words, direct-action is not their first plan, but as a last resort it is also inevitable. In other words, rights are taken, but not given. So, he underlines the instrumental dimension of civil disobedience, it helps them as a political action. By self-purification King means

that they do not aim selfish personal gains, but public good which can be universalizable. He underlines the importance of non-violent action and compares civil right movement with violent Elijah Muhammed's Muslim movement which is also struggle with segregation laws. There is tension between African American against segregation laws, and this energy must be channelized as he tries to do. Whether people choose to use violence and try to overthrow state or choose non-violent disobedience which demand change in the laws (King, 1963, p. 4).

Furthermore, Harrop Freeman argues that: "protests and civil disobedience should receive protection under the First Amendment; that even if the act of protest or disobedience is found to be a technical violation of law, the purpose of the disobedience should cause the punishment to be nominal" (Freeman, 1965, p. 235).

Moreover, as paper mentions at the beginning after civil disobedience get attention of not only academy, but also state officials. They also started to study on the subject and try to solve the problem especially after civil right movement. State officials' arguments to solve the problem also offer us an information to describe what civil disobedience is. We can again analyze the state official's arguments to find out how he describes and try to limit the definition of civil disobedience and solve the problem. To illustrate the point; for example, Erwin Griswold served as an expert at different commission and witness during civil rights movement. As we mentioned before, he is aware of the fact that, civil disobedience is not an anarchism, lawless or revolution. But he also believes that they must be punished, they may be morally can be justified, but legally it is impossible. Because he believes that law is equally binding to all, and this is essence of the law. So, he emphasizes that, if the government tolerates some who refuse to obey law, it allows them to secure benefit, so society worse-off. So, he is the one of the main state officials who handle with civil disobedience cases, and thinkers construct their arguments to criticize his view, his represent authority.

There are two group, first thinkers argue that if civil disobedience successfully prove that law is morally wrong or unconstitutional and achieve the change at the law or policies, then there is no need for punishment (Dworkin, 1977). In contrast, some argues that, just because, civil disobedience is a breach of law, so there must be a punishment, just not to society worse off (Raz, 1979; Singer 1973). There are also two group in second, who support punishment and who support penalty. Penalty means

symbolic deterrence, in contrast to harsh punishment. But it may try to find a legal recognition for civil disobedience, so penalty would be more appropriate rather than harsh punishments. Or, try to find not only moral justification but also legal justification to reject punishment (Feinberg, 1994).

Paper has analyzed various understandings of civil disobedience. But, at some point, as we can see at the above, there may be no common constituents between their explanations of civil disobedience. Actually, there are differences more than shared features at their political, practical and ethical manners. More precisely, I am aware of the fact that there are some overlapping features between examples, and it makes possible us to communicate and dispute on topic. Thinkers attribute some features to civil disobedience and consider them not only necessary but also sufficient condition. Features that thinkers attributed might be necessary conditions for being a civil disobedience, but they are not sufficient.

How many differences there are at the concept will depend on their time and geography. Civil disobedience concept is continuously changing. There is continuous change, because it is used to overcome different deficits of specific times and states. In other words, change is related with its instrumental value. There are important lessons we take each of them. Each discussion about the properties which are attributed to civil disobedience expand our horizons and reminds us the instrumental value of the laws and intrinsic value of human beings.

Paper reasons as follows: just because civil disobedience is contested concept, thinkers have different claims to qualify protest to as civil disobedience. Paper also argues that possible different combinations of the features that are listed above, would also be enough for breach of law's qualify as civil disobedience. At the analyze of the literature review, eleven features come to prominence. These are just some of the features which are attributed to the concept. (paper analyzed all axis's as much as possible, but some may offer offers new axis's and constituents) On the other hand, they may be necessary conditions, but they are not sufficient. Also, there can be numerous combinations of these features which are attributed to civil disobedience, according to different times, geographies and states.

Civil disobedience has two dimensions: descriptive and normative. First of all, we must keep in mind that, it is nearly impossible to differentiate descriptive dimension

from normative one. Because, thinkers construct descriptive dimension of the concept on normative dimension of the concept. In other words, descriptive dimension is related with justifications. Each constituents give us hidden and explicit arguments to study on at the analyze of justification of the concept.

So, the constituents we analyze at this chapter have not only descriptive dimension, but also normative one. Before the analyze of these constituents, we can offer two main descriptive features. Firstly, it is political act, secondly it challenges policy or law according to various explanation of justice, moral values and principles which means it is conscious act. Also, related to this point, it aims a change at policy or law, rather than overthrow of the state.

It is political action, because individual or group of people disobey the law according to various moral values and principles. The word politics is originally come from polis, which means city-state at Ancient Greece. In this context, it means that what concern the polis. Civil disobedience represents individual or group of people, who want to enter politics, about what concern them, society and government. So, civil disobedience is political action.

On the other hand, civil disobedience aims a change at the specific policy or law. So, civil disobedience offers various moral values and principles, and give their definition of justice. Dissenter's political actions based on various justice explanations. Also, it does not aim to overthrow state or create another type of state by revolution (such as communism).

2.2 Conclusion

First of all, paper has argued that civil disobedience is contested concept, because controversies about the concept are perfectly, genuine and valid. Concept can be refined and extended in various ways. Some other controversies may still be offered to include some other feature to civil disobedience concept. However, disputes cannot be resolvable by arguments. In other words, any reasonable, genuine assumption cannot silence the disputes. One should read arguments about controversies of civil disobedience as enriching and varying of the conceptual repertoire. So, paper has aimed conceptual enrichment by analyzing permanent disputes on topic, by praising main axis's and analyzing constituents that comes to prominence at the literature

review. Even one does not change his mind, after recognition of rival use of concept, one can re-construct his argument to be able to maintain his position even for these new horizons.

Secondly, paper has analyzed different definitions and conceptualization of the concept according to different perspectives. At the analyze, eleven fundamental constituents have come into prominence. These are: (1) it is last resort; (2) acted openly, not secretly (3) not-violent, not using violence as a means; (4) not personal gain; (5) acceptance of punishment (6) conscientious (7) done to make a change in the law or policies of the government (8) done to check law's constitutionality (9) after self-purification (10) direct-action (11) cannot appeal to personal moral values and principles. On the other hand, paper has argued that they may be necessary conditions, but they are not sufficient. Also, there can be numerous combinations of these features which are attributed to civil disobedience, according to different times, geographies and states. On the other hand, they show us why we need civil disobedience concept, rather than marginalize it. At the second section we analyze these features more precisely and critically.

To conclude, civil disobedience is continuously changing and contested concept. It is political act and want to change the law or policy according to various moral values, principles and explanation of justice.

3. CONSTITUENTS OF CIVIL DISOBEDIENCE

As we saw at the first chapter, there are multiple lines of the disagreement about the concept. There are disagreements not only about constituents of civil disobedience, but also the actual meanings of these constituents. Because, even thinkers agree on “x” is constituent of civil disobedience, their explanations of this “x” constituent are different. So, at this chapter paper tries to make explicit thinkers’ explanation of eleven fundamental constituent. Paper also offers some counter examples which thinkers give to expand horizons about the possible different meanings of the constituents.

At the first section, eleven constituents have come into prominence at the analyze of the conceptualization of the concept. Paper shows that different combinations of the features that are listed above, offered for breach of law’s being civil disobedience. More precisely, these eleven features help us to make sense of why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it. So, we need to think about the concept in terms of different dimensions, rather than restrictive rigid pre-conditions. There is numerous different conceptualization of the concept, but important point is not to find the best conceptualization, but to be able to think about the concept in terms of different dimensions (Quill, 2009, p. 19).

According to existing axis’s thinkers praise eleven fundamental constituents to the concept. There are options for each constituent which represent the debated nature of the concept. These conjunctions contain “or” rather than “if and only if”, which means that not every thinker consider them as an essential constituent of civil disobedience. For example, Morreall (1991) enrich the conceptualization of civil disobedience by saying “or” there can be violent civil disobedience. More precisely, notion of knowledge can be black or white, but justifications cannot. At the descriptive dimension thinkers construct their definitions by accepting some features as essential constituents for civil disobedience. In other words, if a breach of law lack one of constituent from their definition of civil disobedience, then its collapse, cannot qualify

as civil disobedience. On the other hand, paper aims to show conceptualization of civil disobedience by referring different perspectives as much as possible.

3.1 Various Explanations of the Constituents

Thinkers offers different constituents to differ civil disobedience from ordinary breach of law. Now, we analyze these constituents to expand our horizons about debated nature of the concept. Analyzing these constituents also makes us ready to understand different justifications of the concept.

If we use “or” conjunction, we may be aware of the debated nature of the concept. There are other options for each constituent:

(1) *last resort*: civil disobedience can be last resort, *or* it may have legal recognition at institutional system.

(2) *acted openly*: authorities should notice it. It is not covert or secretive, and do not have hidden agenda. *Or* it can be hidden, aims to stop the unjust, to get job done (who help Jews under Nazi regime).

(3) *not-violent* means civil disobedience should not apply to any kind of violence, not using violence as a means. *Or* it can use violence for justified ends (destruction of draft files during Vietnam War).

(4) *not personal gain* means that civil disobedience aims to furthering the cause of justice rather than personal selfish demands. *Or*, may aim personal exemption, hand washing, rule departure.

(5) *acceptance of punishment* means that individuals are ready to pay the price by going to jail. But it may try to find a legal recognition for civil disobedience, so penalty would be more appropriate rather than harsh punishments. *Or*, one may try to find not only moral justification but also legal justification of the concept, to reject punishment.

(6) *conscientiously* means not unwillingly, thoughtlessly or impulsively. It is obvious, there must be justified claims.

(7) it is done to make a *change in the law* or policies of the government. *Or*, it may be also done for a private exemption, as a personal handwashing especially under illegal

democracies. For example, conscientious refusal less optimistic, and have no expectation to change at laws.

(8) it is done to check law's constitutionality *or* morality.

(9) after *self-purification* element represent the self-criticism, contains both last resort and acceptance of punishment elements. It is uniquely highlighted by King at the descriptive dimension.

(10) *direct-action* means that civil disobedience aims to create a tension, get attention to job get done, such as sits-in marches etc. *Or*, personal withdraw of consent would also be proper.

(11) cannot appeal to personal moral values and principles, it should appeal to *shared conception of justice* which constitution is grounds on. *Or*, minority groups may have demands according to their ethical standards.

First of all, last resort means that the protestors undertake civil disobedience only as a last resort, after all negotiations had failed. In other words, normal channels for securing the equality and justice not working properly, so we need civil disobedience as a last solution. Civil disobedience can be appropriate means to just ends when legal institutions have failed. In other words, all steps have been taking within the legal framework, but they did not work, so it is time to undertake civil disobedience. More precisely, this element is about the timing of the breach of law. Whether one can disobeys the law as a last solution, or civil disobedience can be used as a tool to overcome democratic deficit in the first place.

Explanation of last resort differs between thinkers. While King explain last resort as a last resolution, on the other hand, Arendt tries to find a legal recognition. Because, she argues that civil disobedience can be used to overcome democratic deficit, in the first place. More precisely, King explanation of last resort is King and Negro leaders firstly, wanted to negotiate with city fathers. Secondly, they tried to talk with economic community. But they consistently refused. In these negotiations some promises were made, such as removing all racial signs, but they remained. So, after all this efforts and disappointments they realize that there is no other way but direct-action. As we can see at this example, direct-action civil disobedience was not their first and only option. They wish some changes, but they always denied. Hannah Arendt underlines another

point, during Vietnam War civil disobedience topic become more controversial, because of draft resisters, and the assumptions about the war unconstitutionality. While former group argues that the war is unjust, others argue that war is unconstitutional, decision process and the cause of the war also criticized largely by the public. Paper analyzes the former claim under test to constitutionality of the law title, but Arendt tries to find legal recognition of civil disobedience which criticized last resort element and offers a new solution. Arendt refers to Supreme Court's denial of certiorari case. At this case government's unconstitutional and illegal acts and policies in Vietnam were questioned. But Supreme Court found these cases involved in "political question doctrine", which means that legislative and executive branches decisions cannot be reviewable in the courts (Arendt, 1972, pp. 100-101). It means that even people mobilize and question the constitutionality of the law and policies, Supreme Court has no authority to enforce its decisions. So, Arendt offers a solution, legal recognition of civil disobedience same as pressure groups. Establishment of civil disobedience among political institutions is offered as a best possible remedy for the problem. Because, special interest groups assist Congress by means of persuasion, which is institutionalized so qualified opinion (Arendt, 1972, p. 101).

Second constituent is openness. It means that civil disobedience should be a public act. It not only appeals to the shared conception of justice, public principles but also it is done in a public, openly. It should be undertaken with fair notice; it is not hidden and have no secret agenda. In other words, civil disobedience aims communication with others, it is a form of address.

Individual who breach a law normally has no wishes to communicate with his authorities or public. Because, he does not want others to know that he breaks the law. In most cases, he not only wants to benefit from unlawful action but also not to suffer from it. These are selfish demands, in contrast, civil disobedience wishes to communicate with authorities and public by breaking law, for a change or reform at specific laws.

In a democracy, the audiences are authorities and the public. So, civil disobedience has an expectation from them, it tries to show that law is wrong and something should be done, some actions should be taken. When we look how thinkers explain openness: Rawls argues that: "civil disobedience is never covert or secretive, it is only ever

committed in public, openly, with fair notice to legal authorities” (Rawls, 1971, p. 366). Also, Bedau argues that not only authorities but also public should know what civil disobedience intends to do (Bedau, 1961, p. 655). Hannah Arendt underlines another point, just because civil disobedience is open breach of law, authorities and public cannot talk about conspiracies, it would be misleading accusation for the civil disobedience not only to understand the intention, but also to be able to solve the problem. Conspiracy requires secrecy, in contrast, civil disobedience is open breach of law (Arendt, 1972, p. 99). This element also shows that there is a mutual understanding between citizens. We cannot see this at conscientious refusal, they are less optimistic than civil disobedient, and they also have no expectations to change laws or policies (Rawls, 1972, p. 324).

The conscientious refusal represents that breach of law motivated by the individual’s assumption that one is morally prohibited to follow specific law because law is unjust according to his ethical standards. Consider the case, although Thoreau invented the civil disobedience concept, most of the contemporary thinkers such as Arendt and Rawls, do not consider his case as a civil disobedience but conscientious refusal. Because, non-payment of the tax should not be public, or collective it is individual refusal. While living in his cabin outside of the city, tax-gatherer come to his home, Thoreau refused to pay tax just because he did not want to help finance the US war with Mexico which also about the extension of the slavery. So, he did not openly disobey and appeals to shared conception of justice in the first place, but refuse to be part of the unjust, when state demanded his support.

More precisely, some argues that conscientious illegality is much wider concept than civil disobedience, such as Rawls, Bedau, Arendt. For example, one may continue to practice his religion practices privately even though, he clearly knows that these practices have been banned. In other words, he chooses to ignore the fact that these practices are banned, but do not have any intention to persuade community. He has no audience, spectators. So, it means that just because his action is lack of audiences, it is not civil disobedience. So, openness used not as an opposite of hidden, secret, but also thinkers highlighted its instrumental value, it is open, because it demands communication to persuade others for a change at the unjust law.

Third constituent is non-violence. Most of the thinkers considers non-violence as a defining feature of civil disobedience, such as Wasserstrom, Bedau, Arendt, Rawls. Since one way of saying that a constituent non-violence is essential to civil disobedience concept. For example, just because civil disobedience aims communication with authorities and public, it has to be non-violent to persuade others. In contrast, revolutionary action and radical protest do not aim communication but rapid change, so they use violence to coerce others.

Some argues that civil disobedience should be refused, because its precipitate violence. But King criticize this view, because, it is not logical. King gives some examples to underlines the point, according to him, this assumption would be like, condemning the robbed man, just because, his valuables precipitate the robbery. Or condemning Socrates just because his philosophizing precipitates the misguided popularism and cause his death. Also, he tries to show that civil right movement have elements of self-purification and non-violence, so just because they disobey does not mean it precipitate violence. (King, 1963, p. 3) Another important feature of Civil Right Movement is that there is already a tension at the society just because of segregation laws, and they try to be channelized it peacefully via civil disobedience. More precisely, King there are two extreme community, but they are not extreme. One group lost self-respect because of long history of segregation laws and oppression, so do not demand equal rights anymore. Second group is Elijah Muhammed's Muslim movement who advocates violent struggle. So, non-violent direct-action can channelized the tension and African Americans can get equal rights.

On the other hand, some refuse non-violence as a defining feature of civil disobedience, they criticize the point on several perspectives. Some can say that by non-violent i meant that not violent against others. Non-violent acts or legal acts sometimes cause more harm to others than do violent acts (Raz 1979, p. 267). There are also some controversial examples. Singer gives an example: "a legal strike by ambulance workers may well have much more severe consequences than minor acts of vandalism" (Singer, 1973, p. 86). Also, self-immolation in Tunisia kicked off the Arab Spring, is this civil disobedience. if it is, is self-immolation is violence or not? (Milligan, 2013, p. 150).

More precisely, question of violence against property is grey area. Some groups consider their actions as civil disobedience, show respects to individuals and do not use violence against them. But if, in order to gain access, one breaks the lock on the door of some private animal laboratory and one remove, secure (steal) some injured animals, then we may still consider this action as a civil disobedience. Because, Animal Liberation Front or Greenpeace use violence not to the individuals but to the properties just because they believe that environment and animal rights are more important than properties. Morreall argues that: “disobedience can be violent and justifiable” (Morreall 1991, p. 131). He constructs his arguments on criticism of Bedau’s definition of violence. As Bedau himself puts it: “violence is deliberately, destroying property, endangering life and limb, inciting to riot” (Bedau, 1961, p. 656). On the other hand, Morreall argues that physical violence is not the only kind of violence, there are there are other types of violence done to people without any physical contact. He also, refers to prima facie rights such as life, liberty and the pursuit of happiness. His assumption is that one can do violence do person by eliminating his autonomy (Morreall, 1991, p. 132). He gives example of destruction of draft files to stop war in Vietnam, by arguing it is more effective than non-violent protests, such as peace marches (Morreall, 1991, p. 143). Furthermore, some eco-activist advocate violent civil disobedience. Consider the case, Dave Foreman, founder of the ecology group Earth First, advocates deliberate disabling of machinery that would be otherwise be used in activities such as forest clearance. (Foreman, 1991, p. 131).

Moreover, Hannah Arendt mentions a controversial point. Gandhi’s successful strategy would not be applicable at Stalin’s Russia, or Hitler’s Germany, even it Works against England (Arendt 1972, p. 121). This may be the reality of our world, but our world would be worse of if there were no people who support non-violent protest for a change. They help us to sustain hope for better world and remind us that violence is always bad. Also, paper analyze the violence’s transformative role, at the last chapter which is about justification of civil disobedience.

While we say non-violence as a defining feature of civil disobedience, thinkers use deontological ethics. On the other hand, some focus on consequences of use of violence and its impact. There is a study which analyzes the use of violence and its consequences. Study was started with an assumption violent struggle is most effective way at political struggles (Stephan and Chenoweth, 2008). After the study, they claim

that: “nonviolent campaigns have achieved success 53 percent of the time, compared with 26 percent for violent resistance campaigns” (Stephan and Chenoweth, 2008, p. 8). Their explanation for this situation is, firstly, non-violent civil disobedience gets domestic and international legitimacy more easily, encourage more people to participate and mobilize them, consequently it creates a pressure on target. Secondly, while government easily justify violent counterattack and silence the campaigns, government use of violence against non-violent campaigns cause backfire (Stephan and Chenoweth, 2008, p. 9). In this sense, this paper advocates deontological ethics, rather than consequentialist approach, so use of violence should be excluded from the concept apart from its usefulness or tactical success.

Lastly, use of violence incompatible with concept as a mode of address to public and authorities. Also, use of violence can be considered by others as a threat. Because, civil disobedience should aim warning others, it should be communicative so non-violent. Civil disobedience should not use violence as a means.

Fourth constituent is not personal gain. It means that civil disobedience aims to furthering the cause of justice rather than personal selfish demands. Rawls argues that: “civil disobedience cannot be grounded solely upon group or self-interest” (Rawls, 1971, p. 365). In other words, civil disobedience does not aim to make an exception for himself and to get away with it, he is not a free rider.

Civil disobedience does not aim to overthrow of the government, it just wants to change the law according to some ethical standards. Living in a society means that you have not only rights but also duties. Because people in a society give promise to each other, not to cause any harm to each other intentionally. We focus on the authority vs. autonomy in details at the third chapter, but for now it is important to understand that people in a society prefer self-interest rather than selfishness in theory even we may not see this at practice. So, there is difference between selfishness and self-interest. People may be selfish, they have an interest only theirs short terms benefits, preferences. On the other, when people focus on self-interest, it overrides. People do things also for other people to get something they expect something in return. In other words, selfishness means focusing on short term benefits and preferences. In contrast, self-interested person thinks about long run, do things according to his expectation from others.

Civil disobedient is self-interested person, because they have ethical reasons to refuse to obey unjust law. They try to justify their action and try to persuade others according to his ethical standards and expect from others to change unjust law in the long run. They may cannot persuade others on their justification but being not part of the unjust law is what they get, at least. To illustrate the point, Thoreau refuse to pay taxes to not be the part of the wrong which he condemns. If Thoreau was selfish, he can be conformist. He was prisoned and condemn by the society, but it the long run, he at ease. He has not only some promise to others, but also, most importantly, he has some promises to himself.

Fifth constituent is acceptance of punishment. This element means that law is broken but, individuals show their fidelity to law by accepting the legal punishment of breach of law. In other words, civil disobedient show that he is ready to pay the price to convince others on certain principles. Acceptance of punishment can also have different meanings, first one is acceptance of punishment as a tactic or self-sacrifice, even sometimes by provoking arrest, Civil Right Movement was the perfect example. They aim to mobilize people, because of punishment of disobeying the unjust laws. On the other hand, some connects the element, with punishment arguments, deterrence and retribution, which is analyzed at the next section within justification of civil disobedience. Briefly, some argues that just because breaking the law is a crime, in the first place, so there must be consequences of crime, as a punishment or penalty. It also represents the fidelity to law. In this sense, for example, militant action is not within the bounds of fidelity to law, they do not accept the legal consequences because they are opposed to legal order, in the first place (Rawls, 1971, p. 323).

More precisely, when we analyze the element according to examples, how do thinkers explain the acceptance of the punishment, King argues that acceptance of the punishment not only show their respect for law, but also it is a tactic to raise an awareness. As he himself puts it: “accepting the penalty by staying in the jail to arouse the conscience of the community over its injustice, is in reality expressing the very highest respect for law” (King, 1991, p. 74). Furthermore, willingness to acceptance of punishment also show the importance of the matter for the civil disobedient (Singer, 1973, p. 348). Especially as we saw at the Civil Right Movement, element represent their self-purification. It shows the purity and selflessness of the disobedient’ motivates and help them to mobilize people, and get support from the public (Raz,

1979, p. 265). Carl Cohen also argues that civil disobedience acts within the framework of laws, it means that he accepts its legitimacy, so naturally legal punishment of his act is natural and proper. It also shows he is ready to sacrifice himself for the sake of purpose (Cohen, 1966, p. 8).

In contrast to this view Harrop Freeman underlines the absurdity of the situation from lawyer's point of view. Accepting the punishment means that lawyer would go into court and say: "your honor this man wants to be punished" (Freeman, 1966, p. 26). Hannah Arendt refers to the point and try to find a legal recognition of civil disobedience, which means there is no punishment to civil disobedience (Arendt, 1972). Furthermore, David Lefkowitz claims that: "citizens of liberal democracies have a right to civil disobedience, which he calls public disobedience. Accepting the legal right to public disobedience also claim against punishment by the state" (Lefkowitz, 2007, p. 117). He also offers a solution, rather than punishment, state may penalize them for their breach of law, such as heavy fines and temporary incarceration as a symbolic deterrence. Joel Feinberg also differs penalization from punishment. He argues that punishment is a condemnation through hard treatment (Feinberg, 1994, pp. 73-74).

In contrast, Kimberley Brownlee criticize even symbolic preventative penalties, and argues that: "if there is a moral right to public disobedience in a liberal democracy, it includes a claim against both forcible prevention and penalization of the state" (Brownlee, 2008, p. 716). On the other hand, Marshall Cohen criticize the assumption that accepting the penalty justify the breaking the law. He argues that: "it would be meaningless to suppose that murder, rape would be justified if only individual is ready to pay the penalty" (Cohen, 1969, p. 214).

There is also controversial point about the element, Milligan argues that there is distinction between refusing to accept and refusing to speed up the process or to make simple for the authorities (Milligan, 2013, p. 22). Consider the case, King and his friends use accepting the legal consequences as a tactic to raise awareness on unjust segregation laws. They act openly, speed up the process and make simple for the authorities. On the other hand, Animal Liberation Front or some protesters at Occupy Movement hidden their faces and make the situation harder for the authorities. So, there is a distinction, we can say that Civil Right Movement is a kind of self-sacrifice,

on the other hand, even some protesters have fidelity to law can refuse to speed up the penalty process and make it simple for the authorities.

Sixth constituent is consciousness. It means that not unwillingly, thoughtlessly or impulsively. This action has an intention, chosen course, not accidentally. Individuals do as their conscience dictates, as they autonomously act, not according to law dictates. It does not mean that we should act as we wish, anything goes on, what we should understand is obeying the law is ethical question, and law itself can't settle us, we should not comfortably, blindly obey the law. Law and ethics are distinct phenomena and is analyzed at the third section.

Civil disobedient believe that they do not need law to tell them the right thing to do. Because, they do not need law guidance about right and wrong. They praise their conscious and act according to it. This assumption also claims that state and laws has only instrumental value, they are nothing more than instrument to get things done. But, if thing do not get done justly, then individual use his conscience to correct it. Individual do not break the law, unwillingly, impulsively or accidentally; one refuses the unjust law consciously, to appeals public and authorities' conscience.

On the other hand, there is no privileged conscience, and we cannot say that specific conscious is wrong. Consider the two influential case which are considered as civil disobedience: while Martin Luther King refers to Saint Augustine and natural law, Thoreau does not refer natural law. Thoreau formulated the problem as: "Let your life be a counter friction to stop the machine. What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn" (Thoreau, 1849, p. 9). On the other hand, King refer natural law and consider segregation laws unjust. According to King just because God created man equal, there must be equal laws, it is that simple. On the other hand, Thoreau does not refer any natural law, he just gives his reasoning, ethical standards directly. Just because he did not want to give his support to these unjust actions of the government, so he refused to give his taxes. He refuses obligation to obey law, put his autonomy, reasoning as a source of ethical standards.

Furthermore, Arendt nullified conscientious refusal and its importance at civil disobedience. They should try to make their voices heard. As she himself puts it: "the strength of opinion does not depend on conscience, but on the number of those with whom it is associated" (Arendt, 1972, p. 68).

What we should understand from consciously is there is some ethical standards, which is not fit with the laws or policies. Important point is that no who disobey the law according to his ethical standards have put show its reasoning. So, fourth chapter is about how we can reason in civil disobedience to justify it.

Seventh constituent is done to make change in the law or policies of the government. Civil disobedience aims a change or reform at the laws or the policies of a government. So, there must be an object of protest. In other words, aim of civil disobedience is to coerce the authorities, otherwise, it would be irrational to break the laws. Want a change in the law or policies of government is defining feature of civil disobedience. Civil disobedience focuses on limited objectives, target specific laws and policies. In contrast, revolutionary action focus on unlimited objectives, and target state and government itself rather than specific law or policies.

On the other hand, classification of protests is controversial issue, such as Occupy Movement, Arab Spring Protest or Gezi Park Movement. Some try to find new concept rather than civil disobedience for such protest. For example, Bernard Harcourt argues that civil disobedience is a breach of law, while accepting the authority of the institutions. As he himself puts it: "Political disobedience resists the very way in which we are governed: it resists the structure of partisan politics, the demand for policy reforms, the call for part identification, and the very ideologies that dominated the post-war period" (Harcourt, 2011). According to him, Occupy Movement is an instance of political disobedience.

Eighth constituent is, it is done to check law's constitutionality. Some believe that civil disobedience is an ordinary law breaking, act of anarchism, disrespect to rule of law (such as; Socrates, Herbert J. Storing). On the other hand, some intellectuals are aware of the fact that, civil disobedience is not a law breaking, act of anarchism, disrespect to rule of law or revolution. But they also believe that this action must be punished, because it may be morally can be justified, but legally it is impossible (Erwing Griswold, Justice Fortas). More precisely, Erwin Griswold aware of the fact that, civil disobedience is not an act of anarchism, disrespect to rule of law or revolution. But he also believes that it must be punished, it may be morally can be justified, but legally it is impossible. Because he believes that law is equally binding to all, and this is essence of the law. (Dworkin, 1977, pp. 206-207) So, he emphasizes that, if the government

tolerates some who refuse to obey law, it allows them to secure benefit, so society worse-off. On the other hand, Ronald Dworkin have a chance to construct his arguments against Erwin Griswold even they have different conclusions about justification of civil disobedience. Dworkin tries to show that “validity of law” may be doubtful, so civil disobedience can be used to test the validity of law. In that case, civil disobedience defined as testing legality of the law, if it is constitutional or not. In other words, it is another example which we cannot separate normative dimension of civil disobedience from descriptive dimension. Especially Vietnam War and draft resisters underlines the constitutionality problem, and mold public opinion. Dworkin underlines a point; civil disobedience can be used to check laws’ constitutionality. If the law is invalid, then society may not punish who disobey the laws. Because, in the first place one disobeys the invalid law (Dworkin, 1977, p. 208). Dworkin especially using Vietnam War and draft cases, critically engage with the process and offer some justifications which is analyzed at the third section more precisely. He argues that every law and policies can be questioned, even highest court made a contrary decision. Because, Supreme Court, likely to overrule its past decisions as we saw at the history (Dworkin, 1977, p. 211).

Ninth constituent is after self-purification. At the beginning paper mentions the King’s four basic steps of nonviolent campaign, to explain what last resort means. King’s third principle is self-purification. When King and his friends decided direct-action, they were aware of the fact that it was going to be difficult process. So, they decided to go thorough self-purification (King, 1963, p. 2). They were ready to all of blows and punishment. More precisely, they decided to their direct action at Eastern season, this was the shopping season, so economic withdrawn program would be good product of direct-action. They aimed to make a change by pressuring. Even, this sound very plausible, later they postpone this plan, just because they are afraid of back-fire. There was an election in the short run, so demonstrations could be used to cloud the issue. This prove that they did not move irresponsibly into direct action.

Tenth constituent is direct-action. Direct-action means that authorities and public are unresponsive, so they choose to coerce them rather than persuade. This conception of civil disobedience argues that communicative civil disobedience, does not get response. They lost their hope, to remedy unjust thorough institutional channels. On

the other hand, there are some extreme crises, which needs action to get job done, such as, environmental or animal rights activism. So, they appeal to direct-action.

On the other hand, King consider direct-action as a last and inevitable step of their non-violent protest. He was also, aware of the possible criticisms and have an answer for them. According to him: “negotiation is the purpose of the direct action” (King, 1963, p. 2). As we explain before, King and his friends always denied, even their demand did not listen. So, they decided to create a tension with direct action to be able to negotiate about their demands. He also uses the example of Socrates and his gadfly example, thanks to some individuals create a tension at the society, they expand their horizons. Actually, they are not the one who created the tension, they only try to bring the tension that is already alive to the surface. At this point, there is important point to underline, King believes that they must create a tension at the society, because there is no single example that shows privileged groups give up their privileges voluntarily. In other words, rights are taken, not giving. This point shows the instrumental value of civil disobedience. So, direct-action means that authorities and public are unresponsive, so they choose to coerce them rather than persuade.

Eleventh constituent is cannot appeal to personal moral values and principles and religious doctrines, it should appeal to shared conception of justice. This element firstly underlined by Rawls and has an influence on topic. As Rawls himself puts it: “it is an act guided and justified by political principles, that is, by the principles of justice which regulate the constitution and social institutions generally” (Rawls, 1971, p. 365). So, there is a dispute over the target of the civil disobedience. Some argues that it must be state itself, and excludes options of trade unions, banks, private universities etc. Joseph Raz argues that the target of civil disobedience has to be state itself (Raz, 1979, p. 264). Freeman also agree with Rawls (Freeman, 1965, p. 231). In contrast, some argues that disobedience can protest the decisions of private agents, which are permitted by legal system (Brownlee, 2012, p. 207).

Moreover, Rawls argues that: “conscientious refusal is not based on political principles, so it cannot appeal to the shared conception of justice” (Rawls, 1971, p. 324). This restrictive claim, challenges to economic private institutions, such as banks (in the case of Occupy Movement), logging companies (in the case of eco-protesters such as Greenpeace), or pharmaceuticals corporations (in the case of Animal

Liberation Front). There is also hidden assumption on that point, this element differs leftist radical trade union's protest from civil disobedience. Furthermore, Arendt argues that biggest threat towards civil disobedience is not vandalism or violence but growing influence of ideologies, such as Maoism, Stalinism, Marxism so on (Arendt, 1972, p. 98). Occupy Movement is a controversial case at this point. Some believe that the core issue at stake is economic inequality at Occupy Movement rather than matters of racial, gender or individual rights as at Civil Right Movement. So, just because it is self-interest oriented it cannot be considered as civil disobedience.

Civil disobedience is disobeying the laws according to justified claims. One refuse to obey the laws, and have some justified claims according to his perspective, about concept's descriptive and normative dimensions, to differentiate it from ordinary law breaking. More precisely, paper has offered some arguments to illustrate what makes breach of law civil disobedience. Literature review shows that, the distinction between descriptive and normative dimensions is not always clear. When we start to learn more and expand out horizons about the concept, the more blurred the distinctions becomes. Reason is: when thinkers try to answer the question: "what makes breach of law civil disobedience?" They try to differ civil disobedience from ordinary law breaking, by attributing some unique features to the concept, to construct their descriptive dimension of the concept. Some of them are openness, non-violence, acceptance of the punishment etc. important point is that they all have some hidden premises which justify disobeying the unjust laws, according to some moral values and principles. Even you do not agree on their philosophical perspective, you saw their efforts and reasonings for the task, conceptualization of the civil disobedience.

Paper had offered five axis's about conceptualization of civil disobedience before started to analyze literature review. First axis is: "Is it individualistic or collective?", second axis is: "Is it violent or non-violent?", third axis is: "is it right or obligation?", fourth axis is: "is it about justice or constitutionality of law?", and lastly: "what is the appropriate legal response?". These axis's were offered to illustrate debated nature of the concept and make readers ready to different explanations of the concept at the literature review. Thinkers attribute some constituents to concept and construct their descriptive dimensions of the concept according to these axis's, which are the main grounds of the contests.

Paper reasons as follows: just because civil disobedience is contested concept, there are various conceptualization of civil disobedience. At the analyze of the literature review, eleven features come to prominence. These are just some of the features which are attributed to the concept. On the other hand, they may be necessary conditions, but they are not sufficient. More precisely, there are combinations of these features which are attributed to civil disobedience, according to different eras, layouts and conditions. While one considers (2), (6), (9), (11) as an essential feature, on the other hand, other consider (4), (6), (8), (9), (10) as essential to civil disobedience. Examples can be multipliable.

What we need it is proper understanding of several possibilities, to be open to re-construction of not only our definition, but also our justifications. They show us why we need civil disobedience concept, rather than marginalize it. Paper tried to explore new perspectives about the concept and enrich the understanding. As Ruggerio himself puts it: “the fewer the facts possess, the simpler the problem seems to him. If we know only a dozen facts, it is not difficult to find a theory to fit them. But suppose there are five hundred thousand other facts known-but not known to us” (Ruggerio, 2004, p. 120). So, debated nature of civil disobedience concept come from this point. Because of that, civil disobedience descriptive and normative dimensions should be flexible for challenges and changes. Because, we are destined to see no more than, we have been conditioned to see. Every thinker tries to make a room for civil disobedience according to their times of need. Thoreau dealt with slavery, King deal with segregation laws, Arendt, Dworkin, Rawls, Raz saw the achievements of civil right movement, Vietnam War Protest and draft resisters. Contemporary thinkers deal with Occupy Movements, Arab Spring, ecology and animal right activists, so each of their argumentations contribute the conceptualization of civil disobedience from different perspectives.

Consider the story of six blind men and the elephant. According to their limited perspective and sense of touch, they tried to learn about elephant by touching its different parts. First reached out and touched its side and claimed that elephant was like a wall. Second touched its trunk and decided that elephant was like a snake. The third touched its tail and reached a conclusion, elephant was like a rope, fourth touched its ear and decided that elephant was like a fan, fifth touched its legs and thinks that elephant was like a tree, the last touched its tusk and said that elephant was like a spear. Each had a different understanding of elephant at their mind, only according to their

limited perspective (Ruggiero, 2004, p. 42). Similar to this example, people have a concept of civil disobedience at their mind, but this concept can be change and re-defined according to different perspectives. Five main axis, and eleven fundamental constituents were offered only to expand horizons and offers different perspectives of the concept. One may have a concept of civil disobedience according to Thoreau and decided that civil disobedience is individualistic personal exclusion, another may have concept of civil disobedience according to King and his friend's disobedience to segregation law, also acceptance of punishment as a self-sacrifice. On the other hand, they can be aware of the fact that, draft resisters destruct draft files and consider their action as civil disobedience. Or one who read contemporary thinkers about the topic may decide that, Occupy Movements, Arab Spring or environment and animal activist are also civil disobedience examples. One should read arguments about controversies of civil disobedience as enriching and variating of the conceptual repertoire. So, even one does not change his mind, after recognition of rival uses of contested concept, one can re-construct his argument to be able to maintain his position for these new horizons.

Paper has showed that different combinations of the features that are listed above, offered for breach of law's being civil disobedience. Suppose we can construct various set of properties. For example, eleven features that listed above and assume it can be shown that if various constituents of them obtain, then the concept, five of these properties has to be possessed by all civil disobedience examples. These are it is breach of law, aim to change or reform at the specific law, rather than overthrown of the state, conscientiously offering some ethical standards which not selfish demands are, but universalizable principles. (Being able to be reasoning, having justified claim, offering definition of justice), non-violence and lastly openness. But that other civil disobedience examples may also possess some of other six of them. Then we can define "civil disobedience" and we can offer a characterization. What is important is that there are some subsets the obtaining of members of which is essential for something to be civil disobedience.

If one does not agree with law or policy, then one decide what to do about the situation. To illustrate the topic briefly, there are several possibilities:

- Quiet disapproval. Nothing illegal is done, but that does not mean one approve the law.
- Refusing the obey the law and try to persuade people that specific law is unjust. One can say law is unlawful, because it is unconstitutional. One can criticize validity of law and approve to the higher courts.
- Or one can disobey the law, just because of his believe in higher law.
- One may use violence as a means to change the law or policies to coerce people, rather than persuade them.
- Disobey the law, just because, one does not want to be part of unjust law.
- One may does not believe change or reform at the specific law and want to overthrow the state for a justice.
- One may break the law, but also tries to keep it hidden to escape from punishment.

For example, if one disapproves the law, but also may keep his disapproval quiet (because of fear of punishment or public criticism), no law has been disobeyed, nothing illegal has been done. On the other hand, sometimes one disobeys the law just because of his disapproval, but also keep its hidden (ex: secret religion practices). But quite disapproval or quiet disobedience cannot qualify as civil disobedience. To qualify as civil disobedience, at least, there must be some features:

(1) breach of law.

(2) aim to change or reform at the specific law, rather than overthrown of the state.

(3) conscientiously offering some ethical standards which not selfish demands are, but universalizable principles. (Being able to be reasoning, having justified claim, offering definition of justice)

(4) non-violence, not using violence as a means.

(5) openness.

As a quick note: there are two main ethical reasoning for civil disobedience. Descriptive dimension of the concept construct on ethical reasoning of the thinkers, in other words, their arguments about normative dimension. For example, one may refuse to use violence just because, using violence is deontologically wrong, King and his friends at civil rights movement. Or one may refuse to use violence just because, using

violence can harm the process, others would not support them for a change if they use violence, Rawls (1971) praises non-violence, because civil disobedience aim communication, persuasion of others. Second reasoning represent the utilitarian ethics. So, when paper offers only five main axis' about the concept and listed eleven features which comes to prominence at the literature review, there are hidden utilitarian and deontological argumentation, which descriptive dimensions are built on. This paper tries to construct descriptive and normative dimensions according to deontological ethics. Briefly, golden rule "do unto others as you would have them do unto you", would be fair enough to solve civil disobedience problems not only about normative dimension, but also descriptive one.

Paper argues that civil disobedience has five main constituents, these are:

(1) civil disobedience is a breach of law. More precisely, one breaks the law, not for free-riding, selfish-demands but for a change at the law or policies, which would be wrong if one obey. At the worst scenario, one is at ease, just because one done its duty by not being part of the unjust law.

(2) it aims to change or reform at the specific law, rather than overthrow of the state. More precisely, one can refuse to obey law, just because one may find, it is invalid, unconstitutional or unjust. Civil disobedience does not want to overthrow the state completely, in contrast, civil disobedient has a problem with only some specific unjust laws. Crucial point is that, in contradiction with perfect, enlightened state solutions, civil disobedient take initiative and try to persuade others to change or reform at specific law. Civil disobedience consider democracy as a process, it represents openness to change. Its purpose is perpetual change, rather than specific form of regime or government. There is inevitable democratic deficit at all governments, and civil disobedience offers some different solutions. Most importantly, civil disobedience has fidelity to law, so they show it either by accepting the punishment or trying to find a legal justification for civil disobedience.

(3) one undertakes civil disobedience by conscientiously offering various moral values and principles which are not selfish, but universalizable demands. It represents some ethical standards as justified claims. There is civil disobedience concept, just because there is personal responsibility for injustice. More precisely, *they believe, for various reasons, it is right thing to do*. We may think that these are unconventional

ethical beliefs, but we also must be aware of the fact that, they offer some ethical standards to construct a concept, which is a channel to solve the problems when institutional channels are not enough. Most importantly, italicized part gives us a reasonable argument, which represent they have reasons to define a specific law as unjust or unconstitutional. Living according to ethical standards, also means that giving reasons for it, to justify it. It is matters of judgement, rather than taste.

(4) non-violence is controversial constituent of concept. Because, Morreall (1991) tries to justify it according to utilitarian ethics, just because it helps to get job done. In other words, ends justifies the means. On the other hand, we should be aware of the fact that some refuse to use violence on the same ethical grounds who justify it. More precisely, some refuse to use violence at civil disobedience, just because they believe it would be more pragmatic to mobilize and persuade people for a change (Stephan, Maria J. And Chenoweth, Erica, 2008). In contrast to this utilitarian argumentation, paper argues that civil disobedience is non-violent, just because it is wrong to use violence deontologically. Civil disobedience should not use violence as a means.

(5) civil disobedience should be a public act. It not only appeals to the shared conception of justice, public principles but also it is undertaken in a public, openly. It should be undertaken with fair notice; it is not hidden and have no secret agenda. Civil disobedience openly lists its demands, it should be transparent can be queried. Because, civil disobedience mostly criticizes authorities not only because of their hidden agendas but also not being transparent. Consider the case, one may continue to practice his religion practices privately even though, he clearly knows that these practices have been banned. In other words, he chooses to ignore the fact that these practices are banned, but do not have any intention to persuade community to lift the ban. So, quiet disapproval, such as secret religion practices, cannot qualify as civil disobedience.

What differ civil disobedience from ordinary law breaking is its fidelity to law, it is not free riding but wants a change or a reform according to some ethical standards. Civil disobedience is breach of law, it is open, conscious, non-violent, undertaken to make a change in the law or policies of the government according to not selfish demands but universalizable principles.

Civil disobedience represent self-interest, because it offers ethical reasons to refuse to obey unjust law. There is difference between selfishness and self-interest. People may be selfish, they have an interest only theirs short terms benefits, preferences. On the other, when people focus on self-interest, it overrides. People do things also for the other people to get something they expect something in return. In other words, selfishness means focusing on short term benefits and preferences. In contrast, self-interested person thinks about long run, do things according to his expectation from others. They try to justify their action and try to persuade others according to his ethical standards and expect from others to change unjust law in the long run. They may cannot persuade others on their justification, but not being part of the unjust law is what they get, at worst scenario. This point is important because, it represent that, civil disobedience has not only instrumental value, but also intrinsic value. Just because, civil disobedience aimed a change and tried to persuade others about unjust laws or policies, even it would not achieve a change and cannot persuade others, they achieve personal exemption, not-being part of the injustice by disobeying which is best illustrated by Thoreau. It aims a change in the first place, in the worst case, it became personal exemption, hand washing. So, civil disobedience represents human dignity at this point.

Last resort means that the protestors undertake civil disobedience only as a last resort, after all negotiations had failed. More precisely, this element is about the timing of the breach of law. Whether one can disobeys the law as a last solution, or civil disobedience can be used as a tool to overcome democratic deficit in the first place. It would be best remedy if civil disobedience has not only moral justification, but also legal justification and considered not as a last resort but has a role to overcome democratic deficit. More precisely, just because timing of civil disobedience can be change, last resort element represents the instrumental value of the concept.

3.2 Conclusion

As we saw, there are multiple lines of disagreements between thinkers, not just because of exclusion or inclusion of some features from the concept, but also explanation of features. Because, even thinkers agree on “openness” is constituent of civil disobedience, their explanations of “openness” are different. So, at this chapter paper has tried to make explicit thinkers’ explanations of eleven fundamental features.

More precisely, these eleven constituents help us to make sense of why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it. So, we need to think about the concept in terms of different dimensions. Even one does not change his mind, after recognition of rival use of concept, one can re-construct his argument to be able to maintain his position even for these new horizons.

At the first section paper offered some definitions of the concept, there are different features which are attributed to concept, thinkers exclude or include some features from their definitions. At this chapter, paper tries to analyze these features more precisely, to show what thinkers understand from them. Paper has showed that different combinations of the features that are listed above, offered for breach of law's being civil disobedience. Thinkers attribute some features to concept such as (1) it is last resort; (2) acted openly, not secretly (3) not-violent; (4) not personal gain; (5) acceptance of punishment (6) conscientious (7) done to make a change in the law or policies of the government (8) done to check law's constitutionality (9) after self-purification (10) direct-action (11) cannot appeal to personal moral values and principles or religious principles.

Conceptual controversies between different kind of dissents (conscious refusal vs. civil disobedience) are open to contestation. Even most obvious differences are debated (non-violent vs. violent), because main issue is, they have justifications for each of attributed feature, they are ready to be reasoning. On the other hand, these features not only represent descriptive dimension of civil disobedience but also normative dimension. Because, there are explicit and hidden ethical standards which not only define but also justify civil disobedience. Thinkers try to differ civil disobedience from ordinary law breaking, terrorism or act of revolution. They represent some ethical standards as justified claims. More precisely, *they believe, for various reason, it is right thing to do*. We may think that these are unconventional ethical beliefs, but we also must be aware of the fact that, they offer some ethical standards to construct a concept, which is a channel to solve the problems when institutional channels are not enough. Most importantly, italicized part gives us clues to analyze at the third section. These eleven features not only describe the concept but also represent some explicit or hidden assumptions about normative dimension of the concept. More precisely,

analyze of the descriptive dimension at this chapter, gave some explicit and hidden premises to analyze normative dimension at the next section.

To conclude, our democracies need new understandings of civil disobedience, so we must push its not only descriptive dimension, but also normative one. These eleven features, conditions help us to make sense of why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it. They can be considered as flexible borders, semipermeable.

4. CRITICISM OF CIVIL DISOBEDIENCE

Paper analyzed the descriptive dimension of the concept and it gives us some hidden and explicit arguments to study. More precisely, analyze of descriptive dimension is not adequate to understand the concept properly. We also must analyze its normative dimension which are the justified claims for obedience or disobedience to laws.

Paper argues that there is nothing valuable neither in obedience nor in disobedience to law per se. In other words, “obedience and disobedience to the law would be equally in need of justification” (Simmons 2003, p. 51). Thinkers attributed various constituents to civil disobedience, which also can be considered as pre-conditions for justifications of civil disobedience. On the other hand, various thinkers refuse even these pre-conditions and do not justify civil disobedience neither legally nor morally in any circumstances. So, at this chapter paper analyzes different arguments which show that why disobedience to law is unacceptable. When we look at how do thinkers reach that conclusion, we find some arguments:

Firstly, there is essence of law argument: law that exist is a just law, so, it is morally and legally unacceptable to disobey laws. Law is equally applied to all citizens.

Secondly, paper also analyze three main social contract traditions Biblical Covenant, Hobbesian Model and Locke model to make explicit argumentations of consent theories. First two model does not justify civil disobedience, but Locke model consent theory, leaves a room for justification.

Thirdly, there is utilitarian argumentation: by breaking the law always greater wrong is done, it is greater evil argument. They argue that remedy would be worse off than the evil. More precisely, unjust law is better than lawlessness at all.

Fourthly, there is fair play argument: just because if one benefit from the goodness produced by obedience of members of the political society, but refuse to obey law, then he acts unfairly to the members of the society.

Lastly, there is also gratitude arguments: it means that just because citizen benefits from the state, one also has an obligation towards it.

Thinkers which is analyzed at this chapter argues that it is immoral to disobey the laws, morality requires obedience to laws. In contrast to this view at the next chapter paper analyzes the view that in some circumstances it would be immoral to obey the laws, morality requires disobedience in various contexts.

4.1 Refusal of Disobedience to Law

Thinkers who engage with civil disobedience topic, has always try to answer political philosophy's some fundamental questions, such as: why do I have to obey the law? Where does these laws came from? What is the relation between authority and autonomy? Disagreements among thinkers and dissenters allow us to enter the problems of the concept.

Thinkers which is analyzed at this chapter argues that civil disobedience is not justified because, moral justifications are meaningless, because we cannot talk about morality without laws. This understanding attribute value to law itself, obedience is a duty. Legal justifications are impossible, if there is a breach of law, then there must be punishment. In this context, individuals are coerced to obey laws. Thinkers argues that if civil disobedience is justified then it causes greater evil, and in the long run society worse-off. Consent theory and fair play-gratitude argumentations both underlines the goodness produced by obedience and institutions.

Firstly, even Socrates did not disobey the law, he has a great influence on the civil disobedience literature and offer us arguments to study on. Not only thinkers who agree with him are influenced by him, but also thinkers who justify civil disobedience try to reject his argumentations. Socrates argues that civil disobedience is a breach of law and cannot be justified neither morally nor legally. Because, disobedience may cause lawlessness, which would be worse-off.

At Socrates case, we see four different argumentations: consent theory, gratitude theory, fair play argument and utilitarian principle. Firstly, Socrates underlines his long residence in Athens, which means that he had an agreement, so he must obey the laws even accident befallen to him. It is simply social contract or consent theory. Secondly, he underlines that he owes his everything to the laws of Athens: his birth, education

and all other goods. Briefly, it is gratitude theory at the literature, we should be thankful to the law, because of the goodness which is produced by obedience to laws. Thirdly, he argues that disobedience would be morally wrong, because it would be mistreatment of his fellow citizens (Plato, 1954, 50a). Lastly, he argues that society will worse-off if individuals start to disobey the laws (Plato, 1954, 50b). Briefly, Socrates case gives us some hidden and explicit arguments of consent, gratitude, fair play, and utility theories.

More precisely, we cannot even talk about breach of law at Socrates case. He just gives his justification, ethical reasons to refuse to escape from prison. More precisely, sole issue at his case was whether he should escape from prison with the help of his friends by bribing the guardians or accept his death sentence. Socrates's charges were impiety and corruption of youth, but he did not give up examining the life. He argues that it would be immoral to refuse to principles just because accident has happened to him. Because, before the accident he used to hold these principles. So, he respects them as before (Plato, 1954, 46c). In other words, he uses tacit consent theory, he was consented to live with these laws before, so he must continue to consent even he has problems with it. Living in a country, means that you accept the laws of that country, so it not only brings some rights, but also some duties to the individual.

According to him, no matter is the circumstances one must keep his promise. Socrates believes that, living in a society is like giving a promise. And just because he accepted the laws of the Athena before he was accused, he must not do wrong in return. (Plato, 1954, 54c). Even he believes that accident befallen him, there is unjust verdict, he refuses to respond evil with evil. Because, disobedience to law would be evil act, so rather than to escape from the prison he tried to persuade others at court. In other words, if Socrates decide to escape, it would be selfish thing to do. It would mean that he just wants to save himself from death sentence and live. But it would be focusing on short term benefits and preferences. For him, important thing is not living but living well. Since the laws exist as an entity, breaking the one cause greater harm, worse-off at the long run. If we remember the difference between selfish and self-interested, we can say that Socrates prefer self-interest rather than selfishness. Because, selfish persons have an interest only theirs short terms benefits, preferences. On the other, hand when people focus on self-interest, it overrides. People do things also for the other people to get something they expect something in return. In other words,

selfishness means focusing on short term benefits and preferences, on the other hand, self-interested person think about long run, do things according to his expectation from others. Moreover, we also keep in mind that, Socrates had a hope to persuade the state, that he was innocent. We can relate this hope with his self-interested view also. Just because he was innocent, did nothing wrong, by not escaping he remained innocent, as a symbol of free speech. He argues that if one cannot persuade his country, then one must submit to any punishment (Plato, 1954, 51b).

Socrates refused to disobey even unjust laws. According to him, unjust laws are better than being at anarchy, having no law at all. He advocates that if individuals do not accept the force of the legal judgements, then city cannot continue to exist, it would be upside down. Rather than simply breaking the law and escape with the help of his friends, he tries to his friend that it would be better to do wrong when one is wronged. And refusing even unjust death sentence and escaping the prison, means being lawless, worse-off. We can say that, he keeps his promise, consent towards social contract. If he chooses to live at Athens and benefit from its goods, he also accepts its punishment and obey even the unjust death sentence. So, he refuses all offers to help him to escape, and drink his poison, hemlock, consciously. What relates Socrates with civil disobedience topic is that he fears to contradict with himself.

Similar to Socrates argument's Kant also argues that there is a duty of people to tolerate abuses of authority. (Kant, 1965, p. 86). As Kant himself puts it: "resistance to the supreme legislation can itself only be unlawful; indeed, it must be conceived as destroying the entire lawful constitution" (Kant, 1965, 86). Just because, resistance, disobedience would be unlawful in the first place, its justification also is self-contradictory.

On the other hand, to understand relationship between consent, law and disobedience, we also should analyze the different understanding of contract theories. Thinkers tries to explain political obligation via social contract theories. Hobbes, Locke, Rousseau argues that state had created by voluntary agreement, contracts, which is made by individuals who recognize the authority and establishment of the sovereign power which protect them from insecurity, anarchy and brutality of state of nature.

To explicit the point, paper uses Arendt's categorization. Arendt tries to relate consent theory with civil disobedience. To be able to do that she gives brief explanation of

three social contract theory with aim to show that today's republics have a crisis. According to her there are three types of social contract theories. These are: Biblical covenant, Hobbes and Locke understanding of contract theory (1972, pp. 85-86).

At the first model, just because it is God's command to the people, individuals have an obligation to its laws. They must obey the God's commands; disobedience can't be an option. There is no room for neither moral nor legal justification of disobedience. If individual disobey, then he deserves punishment.

Secondly, Hobbes argues that the state of nature is war and conflict. Just because of fear of death by others, individuals create a sovereign which has absolute power (Hobbes, 1999). Hobbes underlines life as a highest good, life is a precondition for all other goods and values, so first task is to secure life. To secure from state of nature, Hobbes offers a sovereign which is product of consent of the governed, representative of the people. But sovereign not only has absolute and undivided power, but also law is what he says. Because of this understanding, sovereign can never act unjustly, because he is source of the rules of justice. In this context, there is neither legal nor moral justification of civil disobedience. Lawrence Quill also refers to contradiction between Hobbes and Locke to show the main ground of the problem of the topic. According to Hobbes contract made not between people and authority. In the state of nature, there are only individuals who threaten each other's security. They become people only as a result of social contract, thanks to Leviathan. If there is no Leviathan, we cannot talk about any right at all. So, Hobbesian kind of understanding leaves no room to civil disobedience (Quill, 2009, pp. 57-58). Hobbes also, blames Aristotle on his influence, just because Aristotle argues that individuals have a goal to fulfill their rational nature, flourishing. While some argues that civil disobedience justifies civil disobedience by using Aristotelian virtue ethic, by praising human flourishing thanks to its autonomy (Moraro, 2010). More precisely, while Aristotle argues that people live in a community for the sake of human flourishing, Hobbes believes that we enter society just because to avoid greatest evil, to secure from other individuals. So, Hobbes advocates full obedience to Leviathan, just because he believed that criticism of Leviathan causes civil war.

Rousseau also does not justify disobedience to law. According to him, in the state of nature we are born free, equal and independent but with the emergence of society we

become weak, dependent even enslaved. Rousseau also talks about social contract as a legitimate source of authority. There are two points to underline. Firstly Rousseau argues with Locke on government must protect each member's life, liberty, and estate. Secondly, he argues that social contract does not take natural freedom of men. As he himself puts it: "One can obey the laws, but also remain as free as before" (Rousseau, 2002, p. 163). Social contract also is the foundation of general will, which is the legitimate sovereign. In this context, there is no room for civil disobedience. Rousseau also, argues that the law is where our freedom begins. Freedom means acting conformity with laws (Smith, 2012, p. 205). Rousseau's most controversial view is individuals may force to be free. In other words, just because general will is the source of freedom, individuals to not fit it, may be forced to fit (Rousseau, 2002, p. 158). In this context, there is clearly no room for justification of civil disobedience. In contrast to this view, individual autonomy is considered as an intrinsic value to justify civil disobedience. General will understanding later criticized by thinkers because it causes tyranny of the majority or totalitarianism.

In contrast to Hobbes, Locke argues that state of nature is not amoral condition of violence and murder. According to Locke, there were moral law which governs the people. Smith argues that: "is the right of self-preservation, which states that each person is empowered to do whatever is in his power to do to preserve himself" (Smith, 2012, p. 168). In this context, responsibilities of the state are maintenance of domestic order and protection of individuals life, liberty and property. So, if state threaten natural rights, citizens must protect their rights against state. So, protection of natural rights is possible with constitutional and representative limited government.

Locke does not believe that state of nature is amoral and evil as Hobbes thought. Locke believe that people give their consent to governments, but they can take it back. Arendt construct her justification of civil disobedience at this ground, just because we live in a republic which are founded on Locke understanding, civil disobedience is justified. Also, Quill underlines the difference between different understandings of power. As he himself puts it: "Machiavelli focus on how to get and retain power, in contrast, Boetie offers something different, power is a relational concept that ultimately rests with the body of the people" (Quill, 2009, p. 88). Also, La Boetie is considered as one of the earliest thinkers who study on civil disobedience, there are two assumptions for him: all rules rest on the consent of the individuals and the intrinsic value of natural

liberty. According to him, if rule rests on the consent, then individuals overthrow it by mass withdrawal on consent. If power is created by individuals' consent, then it can be collapse by withdraw of consent. (Boetie, 1576, p. 16).

On the other hand, Harrop Freeman refers to Supreme Court decisions which justify the test of the validity of the laws. Because he is a professor of law, he mainly focuses on specific trials and verdict, but for the sake of paper, paper cannot refer each of them. Instead, we analyze his logical-ethical assumptions about possible cases of civil disobedience. First of all, whatever illegal is also immoral, it is often argued. He refuses the view that law and ethics are distinct. Secondly, what is illegal is immoral, there cannot be option to disobedience by referring to higher law. He argues that even disobedience is right and just, just because there was a breach of law in the first place, there must be punishment (Freeman, 1966, p. 230). In contrast to him, Dworkin construct his justification of civil disobedience at same ground and offers that dissenter may persuade others on unconstitutionality of law. Freeman also argues that democratically elected government must be obeyed. Even, 51% enacted and %49 must bound. Finally, there are two most frequent criticisms of civil disobedience. First is, it would cause chaos and anarchy if everyone disobeys the law. Second, who benefits from the society also must bear the obligations of the society (Freeman, 1966, p. 230).

Moreover, David Estlund argues that sometimes consent is null. More precisely, he argues that, in some context authority simply befallen to us, indepently from our consent (Estlund, 2005, p. 351). First of all, consent theory is the view that there is authority over people, if one consent to it. Estlund analyze this view libertarian view, in details, if X does not consent to Y's authority, it means that Y has no authority over B. In other words, there is no authority without consent (Estlund, 2005, p. 353). Then he briefly, criticizes consent theory and underlines that just as there is pre-conditions for authority, there is also some for non-consent (Estlund, 2005, p. 355). So, he tries to show that non-consent sometimes maybe null, if it is non-qualified. So, there should be authority in some circumstances, as you would had consented. As a proof, he gives flight attender example, if there is an injured after the crash, there is authority of flight attender even you do not give consent, briefly your consent would be null in that circumstance. After this argumentation, he reaches a conclusion: consent theory must be rejected, because non-consent is sometimes null (Estlund, 2005, p. 357). Just because of character of authority, it does not lead only leading correctly. He also argues

that: “fair contribution theory best explain authority when it is understood as falling umbrella of normative consent theory” (Estlund, 2005, p. 366).

Thirdly, there is utilitarian argumentation: by breaking the law always greater wrong is done, it is greater evil argument. They argue that remedy would be worse off than the evil. More precisely, unjust law is better than lawlessness at all. This view mainly uses principle of utility, and praise goodness produced by obedience. Briefly, this approach argues that if everybody disobeys the laws at the long run it causes lawlessness, so society worse-off.

This reasoning to obey the laws, just because depend on the overall goodness produced, also used by thinkers to justify civil disobedience. Because in this context, obedience has only an instrumental value, nothing more. As Simmons himself puts it: “there is nothing valuable per se in obeying the law apart from the outcome it produces” (Simmons, 1979, p. 48). As Simmons has pointed out, this view not only to show that we ought to obey, but also that we ought to disobey.

Related to utilitarian approach, Storing (1991) argues that King and his friends may get their demands at USA, so it may seem as an achievement in utilitarian context. One of the most concrete criticism of Storing towards King’s non-violent resistance is King’s comparison Nazi Germany with USA. King uses example of Nazi Germany and remind everybody that Hitler’s and Nazis’ actions in Germany were legal. This example may sound plausible but Storing criticize it harshly. Storing argues that, civil right movement would not be possible in Nazi Germany. King and his friends accept punishment as a tactic and self-sacrifice to make a change at the law, it would not be possible at Nazi Germany (Storing, 1991, p. 95). Storing’s questions also sound so plausible, and most of the people would agree with him. It is nearly impossible to use civil disobedience as a tactic at this kind of regimes. In contrast to this view, paper argues that civil disobedience has a transformative role, which will be analyzed at the last section, in details. Also, there is instrumental value of civil disobedience to achieve some intrinsic value. King and their friends would may be disobeying the laws at Nazi Regime, too, no matter what the consequences would be.

Storing’s this criticism is common, and it is needed further explanation. Thinkers who justify civil disobedience also offers some pre-requisites for justification of civil disobedience. We already saw at the previous chapters; they attribute some

constituents to differ the concept from ordinary breach of law. They also, argues that civil disobedience does not want to overthrow the state, but want to change or reform at some laws or policies according to some moral values.

Rawls also, refers “fair play” argumentation, but it is not adequate at in all circumstances. He clearly underlines that if there are no just institutions, then there are no obligations to obey the laws. So, civil disobedience conditions arise only if certain conditions of just system is satisfied (Rawls, 1971, p. 302). Moreover, Joseph Raz also differ liberal states from illiberal states and justify civil disobedience only at illiberal states (Raz, 1979, p. 262). Because, at illiberal states citizens even has a right to revolt. Lastly, for Arendt, civil disobedience justification is possible only at USA. Because, voluntary organizations are protected by constitution, it is a tradition if we looked to the history of USA. Only Locke kind of convention can tolerate individual’s this kind of protest to the authority. On the other hand, Simmons argues that “a theorist who holds that the acceptance of benefits from a cooperative scheme is the only ground of political obligation, will be forced to admit that in at least a large number of nations, no citizens have political obligations” (Simmons 1979, pp. 136-37). On the other hand, Storing also underlines the difference between fundamentally just systems and unjust systems, at just systems there is possibility to make reform thanks to substances of politics. So, while Storing believes that we can overcome our problems via “substances of politics”, some argues that we need disobedience in some circumstances.

Fourthly, fair play argument refers that political community produce some benefits for its members, such as: security, housing, transport, electricity, clean water, and so forth. If one member benefits from them, it also brings political obligation to obey laws. H.L.A Hart argues that there are not only rights but also some duties at political society (Hart, 1955, p. 185).

Also, we have mentioned the difference between selfish and self-interested, which is also one of the arguments to criticize civil disobedience. In other words, thinkers praise the relationship between not law and citizen, but relationship between citizens. Just because, there is common good produced by obedience to laws, there is a self-interest for the individuals. But, if some decide to disobey the law, then it is considered as selfishness, they became free riders. R. M. Hare underlines the point, there are moral obligations just because we are citizens. As he himself puts it: “if I break the law, I

shall be taking advantage of those who keep it out of law abidingness although they would like to do what it forbids” (Hare, 1976, p. 11). Again, it is clear that, this understanding praise the relationship between individuals, do not attribute any intrinsic value to law itself.

In contrast to criticism of fair play arguments, civil disobedience does not mean freeriding. Civil disobedience demand change or reform at the unjust laws or policies according to some ethical values. Crucial point is that civil disobedience has some constituents, which can be considered as pre-conditions for its justifications. To illustrate the point, if civil disobedience aims free riding it would be hidden act, but one of the most common accepted constituent of civil disobedience is openness.

Lastly, there is also gratitude arguments, it means that just because citizen benefits from the state, he also has an obligation. While fair play arguments underline the relationship between individuals, citizens; gratitude arguments underline the relationship between state and individual, citizen. As paper mentioned at the beginning of the chapter, one of the Socrates arguments to refuse disobedience based on gratitude argument. He underlines that he owes his everything to the laws of Athens: his birth, nurture, education and all other goods. A. D. M. Walker’s argument takes the following form: gratitude means that if person benefit from X, then person should not act contrary to X’s interest. More precisely, just because, every citizen clearly benefits from the state, they should not act contrary to state’s interest. As he himself puts it: “every citizen has an obligation of gratitude to comply with the law” (Walker, 1988, p. 205). Also, Peter Steinberger claims that voting or otherwise participating in elections should count as consent. He also makes a list of fairly ordinary activities that constitute “active participation in the institutions of the state” (Steinberg, 2004, pp. 219–20).

In contrast to gratitude argument, civil disobedience also does not aim to act contrary to state interest. What state is and what are its interests are contestable, but clear point is that, civil disobedience does not aim to overthrow the state. It aims reform or change at some policies and laws, just because it is immoral or unconstitutional. These demands may will be refused, but from utilitarian point of view, citizens’ questioning the laws or policies is the chief vehicle for its control.

On the other hand, McPherson argues that: “we simply misunderstand what it means to be a member of a political society if we think that political obligation needs any further justification” (McPherson, 1967, p. 64). In other words, being member of a political society also means that one has some obligations too. Leslie Green argues that: “having a virgin birth, obligation has no father among familiar moral principles such as consent, utility, fairness, and so on” (Green, 2003). Furthermore, Michael Hardimon argues that we do not need contract theories for political obligations, because there is also “roles into which we are born” (Hardimon, 1994, p. 347).

On the other hand, Herbert J. Storing (1991) criticize mainly Martin Luther King’s views. Civil disobedience has a place between ballots and bullets. On the other hand, Storing, consider it as a weak resort, because subject not only have problem with duties but also with rights. In other words, civil disobedient neither fully accept its duties to obey the law, nor waive his rights. According to Storing there are distinction between King’s nonviolent resistance and civil disobedience. First, non-violent resistance should not always include illegality, it can be legal non-violent resistance. Secondly, civil disobedience is not testing the validity of the law. He also mentions Malcolm X, and African American who criticize King and his nonviolent resistance, maybe more than any other group. Storing analyze Malcolm X and his statement in details and refer him: “blood running all down your jaw, and you don’t know what is happening. Because, someone has tough you to suffer-peacefully”. Storing clearly separate King’s non-violent resistance from other revolutionary violent groups. But also argue that, non-violent resistance is a tactic, and has no more independent significance than guerilla boycott or sabotage. In contrast to Storing, this paper argues that non-violent resistance has moral value. Because, they not only raise awareness among African Americans who accepts the segregation laws, but also, inspire of non-violent new kind of protest. They refuse violent resistance and show the world peaceful tactics can raise more awareness on unjust laws and systems.

Moreover, some underlines the absurdity of justification of civil disobedience by accepting the legal punishment. Harrop Freeman underlines the absurdity of the situation from lawyer’s point of view. Accepting the punishment means that lawyer would goes into court and says: “your honor this man wants to be punished” (Freeman, 1966, p. 26). Hannah Arendt also underlines the point and try to find a legal recognition of civil disobedience, which means there is no punishment to civil disobedience

(Arendt, 1972). Furthermore, David Lefkowitz argues that: “citizens of liberal democracies have a right to civil disobedience, which is public disobedience. Accepting the legal right to public disobedience also claim against punishment by the state” (Lefkowitz, 2007, p. 117). He also offers a solution, rather than punishment, state may penalize them for their breach of law, such as heavy fines and temporary incarceration as a symbolic deterrence. Joel Feinberg also differs penalization from punishment. He argues that punishment is a condemnation through hard treatment. (Feinberg, 1994, pp. 73-74). Kimberley Brownlee criticize even symbolic preventative penalties and argues that: “if there is a moral right to public disobedience in a liberal democracy, it includes a claim against both forcible prevention and penalization of the state” (Brownlee, 2008, p. 716).

In contrast, Marshall Cohen criticize the assumption that accepting the penalty justify the breaking the law. He argues that it would be meaningless to suppose that murder, rape would be justified if only individual is ready to pay the penalty (Cohen, 1969, p. 214). Storing (1991) also criticizes the justification of civil disobedience via accepting the punishment, fidelity to law. He mentions the view that law not only regulate but also teaches. Once man does not feel that he must obey the law, then he starts to ask a question for each, shall I obey and why? Some may argue that this what makes man free. On the other hand, Storing underlines the point law commands, punishes and habituates. So, we came to the most fundamental problem of political philosophy. Either we are capable of live without constraint’ or not? Thinkers may not persuade all to the justification of civil disobedience but, at least, if we still talk about Socrates, Thoreau and King I think they achieve their aim, they represent something which people think about according to their perspective.

As we saw, there are mainly two view reasons two not justify civil disobedience in any circumstances: firstly, if there is law, then people must obey, breach of law can’t be justified. Secondly, if people start to disobey the laws, in the long run society worse-off. We find analyze of the justifications of civil disobedience at some circumstances at the next section. But, even when thinkers offer their justifications, we find some pre-requisite, necessary constituents which differ civil disobedience from ordinary breach of law. Also, even thinkers agree on their conclusion, their argumentations are different. In other words, they praise civil disobedience instrumental value by referring

different intrinsic values. At the next section paper try to make explicit these values, which are the main reasons to disobey law.

4.2 Conclusion

At this chapter paper analyzed some arguments which show that why disobedience to law is wrong. Thinkers argues that there is political obligation of citizens towards state. When we look at how do thinkers reach that conclusion, we find some argumentations:

Firstly, there is essence of law argument: law that exist is a just law, so, it is morally and legally unacceptable to disobey laws. Law is equally applied to all citizens. Secondly, paper also analyzed three main social contract traditions Biblical Covenant, Hobbesian Model and Locke model to make explicit argumentations of consent theories. First two model does not justify civil disobedience. Locke model consent theory leaves a room for justification. Thirdly, there is utilitarian argumentation: by breaking the law always greater wrong is done, it is greater evil argument. More precisely, unjust law is better than lawlessness at all, just because disobedience may cause anarchy remedy would be worse off than the evil. Fourthly, there is fair play argument, just because if one benefit from the goodness produced by obedience of members of the political society, but refuse to obey law, then he acts unfairly to the members of the society. Lastly, there is also gratitude arguments, it means that just because citizen benefits from the state, he also has an obligation towards state.

Paper argues that there is nothing valuable neither in obedience nor in disobedience to law per se. Human dignity and autonomy has intrinsic value, while laws has an only instrumental value. In other words, “obedience and disobedience to the law would be equally in need of justification” (Simmons 2003, p. 51). Just because, there is nothing valuable per se in obeying the law apart from the outcome it produces. As Simmons has pointed out, this view not only show that we ought to obey, but also that we ought to disobey (Simmons, 1979, p. 48). So, at the next section, paper analyzes some justifications of civil disobedience according to utilitarian point of view.

Paper defined the concept as it is breach of law, it is open, conscious, non-violent (not use violence as a means), done with the aim of bringing about a change in the law or policies of the government according to not selfish demands but universalizable

principles. One breaks the law, not for free-riding, selfish-demands but for a change at the law or policies, which would be wrong if one obeys. Philosophers include or exclude some defining constituents of civil disobedience, which also means they de-justify some other justifications. Each justification not only explicitly criticize the overriding value of obedience to law, but also criticize some other thinkers who can't adequately justify disobedience to law. Some constituents considered as necessary or sufficient conditions means that, thinkers do not justify civil disobedience unless it has some rigid prerequisites. For example, if it is violent, then it is not justified. Or if it is not accepting punishment, then there is no difference between ordinary breach of law and civil disobedience which show its fidelity to law, so it is not justified. More precisely, thinkers draw boundaries and make their definition of civil disobedience. Important thing is to find out, explicit and analyze their special purpose, in other words, their justifications which differ civil disobedience from ordinary breach of law.

5. JUSTIFICATIONS OF CIVIL DISOBEDIENCE

Thinkers offers various moral values and principles to justify civil disobedience at different contexts. More precisely, thinkers praise different moral values to underline concept's instrumental value to justify it. In other words, civil disobedience itself has no moral value, nobody undertakes it for the sake of civil disobedience itself. But individuals undertake and use it as an instrument, for different values, these are: justice, autonomy, democracy and common interest.

We have to be aware of the fact that, thinkers not only praise different values, but also justify civil disobedience according to different ethical principles: utilitarian, duty and virtue ethics. So, paper not only illustrates the praised values, but also makes explicit thinkers' principles. On the other hand, each justification not only explicitly criticize the overriding value of obedience to law, but also criticizes some other thinkers who can't adequately justify disobedience to law.

Chapter analyzes justifications into three main categories: civil disobedience as a moral principle, civil disobedience as a moral value and civil disobedience as a practice of virtue. More precisely, at the first section, while Thoreau (1849), King (1963) and Bedau (1968) underlines justice; Raz (1979) and Morreall (1991) praise autonomy and they consider civil disobedience as a moral principle. At the second section, while Arendt (1972) and Markowitz (2005) emphasize politics and democracy, Dworkin (1977) indicate common interest and they consider civil disobedience as a moral value. At the third section, Moraro (2010) indicates importance of respect to autonomy of fellow citizens and consider civil disobedience as a practice of virtue. Paper tries to make explicit these argumentations to show why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it.

Before start to analyze justifications, we have to be aware of the fact that, thinkers offer various moral values, justified claims just because they believe that law and ethics are distinct, in the first place. In other words, thinkers at this chapter argues that moral and legal justifications are separate, action may be illegal but also can be a moral. More precisely, thinkers which is analyzed at the previous chapter have argued

that it would be immoral to disobey the laws, morality requires obedience to laws. In contrast to this view at this chapter paper analyzes the views that in some circumstances it would be immoral to obey the laws, morality requires disobedience in different contexts.

5.1 Civil Disobedience as a Moral Principle

Henry David Thoreau, Martin Luther King, Hugo Adam Bedau and John Rawls justify civil disobedience because it became a duty if laws are unjust. In other words, they argue that it would be immoral to obey laws, which contradict with their understanding of justice. Sometimes, disobedience is moral, and obedience is immoral. On the other hand, Joseph Raz and John Morreall justify civil disobedience for the sake of individual autonomy.

More precisely, Thoreau and Bedau underlines the personal responsibility for injustice, and consider disobedience as a duty, to withdraw his support to injustice. King refers to natural law and consider the disobedience to law which are contradict with it as a duty. Rawls argues that there is a duty to establishment of just arrangements, when they do not exist. On the other hand, Raz and Morreall justify civil disobedience for the sake of individual autonomy. According to them there are laws just to protect and promote individual autonomy. In other words, laws have only instrumental value, while individual's autonomy has intrinsic value.

Firstly, Thoreau argues that it is wrong to obey unjust laws. He argues that American government is wrong to prosecute a war in Mexico and enforce Fugitive Slave law. Just because he did not want to give his support to these unjust policies of the government, he refused to give his taxes. As he himself puts it: "if it requires you to be the agent of injustice to another, i say break the law, i do not lend myself to the wrong which i condemn" (Thoreau, 1849, p. 9). So, Thoreau consider himself responsible for injustice, even he is not a direct agent of the injustice. In this context, being citizen means not only having rights, but also some duties.

There is an important point to underline, which we can see the clear distinction between utilitarian and duty account of civil disobedience. While Thoreau considers civil disobedience as a duty, Arendt considers the moral value of disobedience by focusing its consequences. More precisely, some differ civil disobedience from

conscientious objection. They argue that there are two different purposes in the first place. While conscientious objector aims private exemption, in other words hand washing from the unjust laws; civil disobedient aim to raise awareness and make a change at the unjust law. Consider the case, although Thoreau invented the civil disobedience concept, most of the contemporary thinkers such as Arendt and Rawls, do not consider his case as a civil disobedience but conscientious refusal. Because, non-payment of the tax should not be public, or collective. It is individual refusal, also he does not wish to be arrested. While living in his cabin outside of the city, tax-gatherer come to his home, Thoreau refused to pay tax just because he did not want to help finance the US war with Mexico which also about the extension of the slavery. So, he refused to be part of the unjust, when state demand his support. As he himself puts it: “it is not man’s duty to devote himself to the eradication of any, even the most enormous wrong. But it is his duty, at least, to wash his hands of it, and not to give it practically his support” (Thoreau, 1849, p. 7). In contrast to this view, Arendt differ civil disobedience from conscientious objections and consider individual conscience inadequate to justify civil disobedience. As she herself puts it: “conscientious objection can become politically significant when a number of consciences happen to coincide, and the conscientious objectors decide to enter the marketplace and make their voices heard in public” (Arendt, 1972, p. 67). In contrast, Thoreau argues that it may seem meaningless to refusing tax individually, but this refusal has intrinsic value, apart from its consequences. Second group argues that civil disobedience is not for personal gain, personal exemption, but it aims to furthering the cause of justice rather than selfish demands. So, it should be collective rather than individualistic.

Thoreau simply do not believe that if majority won the election, minority should fall silent. He was completely against this view, and he had a great influence at later generations. According to him citizens should not followed their administration silently (Thoreau, 1849, p. 2). Thoreau prefer independent thought to silent obedience and show his thoughts on unjust war and slavery by refusing the pay taxes. The non-payment of the tax can be considered as one example of the many non-violent ways of civil disobedience, resistance against elected government. According to him, election may decide who govern, but it does not show that all the things that government do is right and just. He was an example to show that what can minority can do against government wrong policies, rather than waiting for the next elections. Thoreau is

important to remind us citizen must never just resign his conscious or autonomy completely to the legislation and put himself position of total obedience of government.

Moreover, Thoreau criticizes thousands who share same opinions with him but do nothing about their opinions, moral values. He concludes this criticism with underlying the democratic deficit. Only voting for the right thing, is not adequate to reach right. It is same as leaving right to the mercy of a chance. As he himself puts it: "Voting and expecting right to prevail through the power of the majority is meaningless, further effort is needed" (Thoreau, 1849, p. 6).

As paper mentioned before, Hobbes argues that we cannot talk about rights at the state of nature. So, his understanding of Leviathan leaves no room for justification of civil disobedience according to some rights as a citizen. But Thoreau clearly states that "we should be men first, and subjects afterward" (Thoreau, 1849, p. 2). We can talk about justice apart from Leviathan. In contrast, Hobbes argues that in the state of nature, there are only individuals who threats each other security. They become people only as a result of social contract, thanks to Leviathan. But Thoreau argues that: "law never made men a more just" (Thoreau, 1849, p. 2). In contrast, he underlines, there is a threat which come with blind obedience to laws and people can be easily manipulated and they tend to serve he devils, even without intending it. At the last century, we have seen that Thoreau was right. Tyranny of majority is the biggest problem of our democracies. Thinkers refers Thoreau's views on that ground to praise critical individuals for democracies.

One of the main criticisms against civil disobedience is, if everybody disobeys the laws, it would cause chaos and anarchy, so society will worse-off in the long run. For example, Hobbes lived at the era of civil war, and suffered from it, that is why he advocates strong absolute power. In contrast to this view, civil disobedience demands change or reform at the laws and policies of the government, just because they are unjust. They have fidelity to law, and not aim to overthrow state, as Thoreau also underlines (Thoreau, 1849, p. 2). He chooses to refuse to pay taxes rather than keep silent against unjust war which support slavery. So, aim is not overthrown of the government, but fulfillment of his duty.

On the other hand, related to conscious refusal, Thoreau also criticizes the view that individual who thinks that law is unjust should persuade others, rather than undertake civil disobedience. Thoreau clearly refused greater evil argument and argues that it is government fault that the remedy is worse than the evil. He gives examples of crucifying Christ, excommunication of Copernicus and Luther consideration of Washington and Franklin as rebels (Thoreau, 1849, p. 8). Then he gives his machinery allegory: consider himself as a cog and aim to broke machine because of his counter friction.

As Thoreau underlines the unjust laws and policies to justify civil disobedience, King also do the same. On the other hand, unlike Thoreau, King refers to natural law. As Thoreau, King also argues that all citizens are equally responsible for the unjust laws and policies of the government (King, 1963, p. 1). More precisely, Martin Luther King refers to Saint Augustine. According to Augustine there are two types of laws just and unjust laws. And, unjust law is no law at all. But we can ask what are the differences between them? How one can be sure about whether law is just or unjust? King's give an answer by referring to Saint Thomas Aquinas: "unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust" (King, 1963, p. 3). In this context, all segregation laws are unjust, because it degrades human personality. So, it would be immoral to obey segregation laws which contradict with natural law. In other words, morality requires disobedience to segregation laws, in this context.

Briefly, King argues that just because God created man equal, there must be equal laws. If there are no equal rights, it would be immoral to obey unjust law. So, he justifies civil disobedience by referring to natural law. They use natural law to determine whether there is injustice or not. After they decide that there is injustice, then try to negotiate to correct them. But just because legal channels did not respond their justice demands, they undertake non-violent civil disobedience. He uses familiar example which was also used by Socrates. According to him just as Socrates consider himself as gadfly who creates tension at the society, he also uses the same method to help his society and show that segregation laws are unjust. In other words, direct-action is not their first plan, but as a last resort it is also inevitable. So, he underlines the instrumental value of civil disobedience, it helps them to achieve justice, equal rights.

King justify only non-violent civil disobedience. He refuses who consider disobedience as an extreme and give examples of extreme movements. There are two extreme force in African American society, and King is in the middle of these two forces. According to King, one is who accept segregation laws and lost their dignity to have autonomy, because of hatred and oppression they get used to with coerced decisions. In other words, they have no certain degree of self-awareness which is needed to have autonomy. On the other hand, there is a group who want to use violence just because they have full hatred against all white Americans. He gives the example of Elijah Muhammed's Muslim movement who lost their faith in United States of America and white people, only believe in violent struggle to get rid of all segregated laws and discrimination. This is one of the most persuasive reasoning which justify the non-violent disobedience. According to King there is tension between African American against segregation laws, and this energy must be channelized via civil disobedience (King, 1963, p. 4). Whether people choose to use violence and try to overthrow state or choose non-violent disobedience which demand change in the laws. So, as an autonomous individuals African Americans have two options whether be an extremist for hate, or extremist for love, which is represent violence struggle and non-violent disobedience.

On the other hand, if we remember civil rights movement and King case, the Rosa Park and Friendship Nine examples, they use accepting the legal punishment as a tactic, by punishing by unjust laws they not only raise public awareness, but also mobilize African Americans. Rosa Park knows that if she sits at the seats for white Americans, she was going to be punished. Or more controversial example is, nine friends arrested just because they took their seat which does not allowed to them. Important point is that, they refuse to pay to release, and accept full punishment, which is even today known as "jail, no bail". More precisely, King consider non-violent resistance in the middle of two extreme views among African Americans, who support violent revolution and who accept segregated laws, inequality. So, for King, just because segregation laws are contradicted with natural law, it is their duty to disobey these unjust laws, in other words, punishment does not have deterrence value for him and his friends.

Thirdly, Hugo Adam Bedau argues that there are two problems about civil disobedience, its justification and definition. According to him, dissenters either to

prevent some laws or policies which they thought unjust, or in order to protest the operation of some unjust law or policy. Dissenters who want to prevent the unjust laws or policies undertake “direct resistance”, while dissenters who want to protest undertake “indirect resistance”. (Bedau, 1968, p. 518). He argues that the cause of this distinction is purpose of the protest had come under attack by some. On the other hand, most of the civil disobedience in USA was indirect. So, there is a key difference between who criticize indirect civil disobedience and dissenters who undertook it. So, purpose of the Bedau is both underline this point and make justification of both direct and indirect civil disobedience, Bedau not only justify civil disobedience but also underlines the personal responsibility for injustice. In other words, he offers civil disobedience as an obligation.

Bedau construct his justification mainly against criticism of Mr. Erwin Griswold and Mr. Abe Fortas. They argue that “civil disobedience is never justified in our nation where the law being violated is not itself the focus or target of the protest. The law violation is excused only if the law which is violated itself is unconstitutional or invalid” (Bedau, 1968, p. 518). In contrast to this justification, he argues that if who criticize indirect civil disobedience were correct, civil disobedience justification would be possible only for those who are directly involved injustices. More precisely, only victims (slaves and Indians), and agents (bounty hunters, soldiers) of injustice would be justifiable. On the other hand, civil disobedience did not only undertake by those who directly involved injustices, but also other who consider themselves directly involved injustices. According to this view, which does not justify indirect civil disobedience, Thoreau should not undertake civil disobedience. As we saw at Thoreau case, his main purpose was not being part of the injustices that he condemned. Thoreau did not want to overthrow the state, he refused to pay his taxes just because of the unjust laws and policies, fugitive slave law and War on Mexico. More precisely, no one forced him to be direct agent of injustice, for example to be slave hunter or soldier. Also, he was neither Mexican nor slave, he lived peacefully at Walden. But he gives us one of the most well-known justification of civil disobedience, by refusing to be part of the unjust war. According to Thoreau’s point of view, he is responsible from acts of his state, just because he taxes. Bedau’s paper is important to relate especially Thoreau case with criticism of state officials, Griswold and Fortas. Is one justified to undertake civil disobedience, whether or not one is directly affected by unjust laws or

policies? Thoreau gave his answer nearly two centuries before, he refused to be part of the injustice against Slaves and Mexican and underlines his own responsibility.

Bedau also not only justify civil disobedience, but also offers another term, “personal responsibility for injustice”. We should think about our responsibilities if we really want just society. On the other hand, he not only tries to criticize explicit reasoning’s of Fortas and Griswold, but also try to make explicit their possible hidden assumptions. They are public figures and officials, they have argument which does not justify civil disobedience, but according to Bedau, they never explicit how do they reach their conclusion. So, Bedau tries to find some arguments which they may thought:

- They may think that First Amendment only protect status of “speech” but not acts.
- Breaking the law is not same with protesting it. So, even at the end, they prove the invalidity or unconstitutionality of the law, there is another fact, they already broke law. And invalidity or unconstitutionality of the law cannot be excuse.
- Civil disobedience is not dissent, but act of a rebellion. Rebellion cannot be justified.
- Civil disobedience causes social chaos. Violent civil disobedience protest against Vietnam War as an example.
- If dissenters want to be educative, and try to communicate with others, they should not undertake civil disobedience.
- Civil disobedience purpose is to raise awareness on link between dissenter and who suffers from injustice, but indirect civil disobedience cannot enable this link at all (Bedau, 1968, pp. 523-524).

Bedau refuses all these possible hidden assumptions of Fortas and Griswold. And state that he wants to focus mainly on explication and interpretation of their contrast position, Thoreau’s principle. First of all, he underlines a point, acceptance of responsibility does not mean accepting the fault. We cannot blame Thoreau because of his government’s actions and policies, but Thoreau take responsibility for injustice and act according to his ethical standards. (Bedau, 1968, p. 526). He is responsible, only if, others responsible too. In other words, all are responsible equally and for the same reasons. To check Bedau’s assumptions about Thoreau we can remember,

Thoreau's views one more time. Consider the case, Thoreau's best friend Waldo visited his friend at the prison, and ask to the Thoreau why are you here? Thoreau's answer confirms Bedau's assumption about Thoreau: "why you are not here?" More precisely, Thoreau was prisoned just because he refused to be part of the injustice that he condemned, his friends also should be at same position, according to Thoreau.

Moreover, Bedau tries to make explicit possible hidden assumptions of Thoreau, as he did for Griswold and Fortas previously. According to Bedau, Thoreau's possible hidden assumptions are: Marshals, sheriffs, soldiers violate human rights, consciously, voluntarily they serve the injustice. They do not act on their own, state pay them to act certain way with full authorization. Because of that, government is responsible for those injustices. On the other hand, if community knows the acts and policies of its government's, then community became responsible for injustice it does. Also, membership condition can be discussed. It might be argued that acceptance of benefits, or voting, paying taxes or residency make individual responsible for injustices of the government. Especially, if individual pay taxes and also know how they have been spent and will be spent, he become fully responsible, whether he is obligated to pay his taxes or not. Anyone who take responsibility for injustice of its governments, should at least, refuse to pay taxes to withdraw his responsibility. Bedau make a great contribution by making explicit all hidden assumption of Thoreau. For each of these hidden assumptions one can find sentences to relate, in details. Bedau also tries to state some of Thoreau's statement, we only try to underline last two assumption. As I try to underline at the introduction part, one of the most difficulty about studying civil disobedience is to be able to explicit hidden assumptions. In other words, the lessons that we can get from important civil disobedience examples. Bedau argues that we are all responsible for what our country's soldiers do. It is so controversial view, and most of the people at our society would want to accept this kind of responsibility even they say they admire Thoreau and his actions. Thoreau take responsibility even he is not direct agent of injustice. Consider the case, Thoreau accept legal consequences of his refusal to pay taxes, just to withdraw his support against unjust war on Mexico. Today people would refuse their responsibility even they believe that their country declare an unjust war. Most of the countries try to benefit from current situation at Iraq and Syria, nearly all great countries involved the wars at various dimensions. But their citizens, even they think these are unjust wars, would not, do not take responsibility as Thoreau

did. On the other hand, people belittling Thoreau about his ethical standards. More precisely, people may underestimate the efficiency of Thoreau's withdraw from support of the states, payment of his taxes. On the other hand, Bedau underlines a point, important point is not the efficiency of individuals non-payment of the tax, but the disobedience itself as a duty which underlines the personal responsibility for injustice (Bedau, 1968, p. 526). Thoreau consider this as a kind of hand washing. He may not stop the machine, but at least, he can choose not to be one of the cogs of the machine, which produce injustice. This view has a great influence on purpose of this study on civil disobedience. So, Bedau not only justify civil disobedience, but also prove that there is personal responsibility for injustices at some situations, which is also his justification for civil disobedience.

Fourthly, While Thoreau and Bedau underlines the personal responsibility for injustice, King refers to natural law. Unlike them, Rawls tries to offer a definition of justice which can be accepted by everyone. Rawls also justify civil disobedience if laws and policies are unjust. He offers a definition of justice "justice as fairness" (Rawls, 1971, p. 3). If we ask to them, everybody want justice, but their definition of justice would be different. For example, at Thoreau and King examples most of the society and government consider slavery and segregation laws as justice. There are two natural duty according to his theory of justice. As he himself puts it: "First is if there are just institutions then we have a duty to obey them. Secondly, we are to assist in the establishment of just arrangements when they do not exist" (Rawls, 1971, p. 293). Also, there is controversial point related to justification of civil disobedience: whether there is prima-facie duty to obey the laws or not. In other words, Rawls underlines that if there are no just institutions, then there are no obligations to obey the laws. In other words, obligations arise only in certain circumstances, with conditions.

John Rawls also argues that each individual has intrinsic value and total welfare of society cannot override this intrinsic value (Rawls, 1971, pp. 24-25). So, he offers us a definition of justice, and expect from others to respect these fundamental rights. If there is a problem about recognition of these fundamental rights, then they should be changed. This point is the basic justification of civil disobedience. Because, he argues that: "in a just society the liberties of equal citizenship are taken as settled" (Rawls, 1971, p. 3). As we sat previously, in Thoreau case, society was glad from the current situation they benefited from African slaves, did not give them citizenship and equal

rights as they are. But Thoreau refused this total welfare of society and underlined the intrinsic value of human being. Laws must be reform, otherwise he refused to obey the law and give his taxes. On the other hand, King also, underlined the same point, just because people are created equal, they must have equal rights. So, he became one of the leaders of civil rights movement and disobey segregation laws. In other words, civil disobedience is justified in that situations just because equal citizenship was not taken as settled. As Rawls himself puts it: “A theory however elegant and economical must be rejected or revised if it is untrue; likewise, laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.” (Rawls, 1971, p. 3). Utilitarian point of view, would only consider the consequences apart from its degree of justice. In contrast to utilitarian point of view, Thoreau, King, Bedau and Rawls offer civil disobedience as a duty, according to degree of justice of the laws.

Moreover, he does not justify violent civil disobedience, or conscious objection as civil disobedience. (Rawls, 1971, p. 320). So, he does not consider Thoreau case civil disobedience. This points criticized by other thinkers, who justify violent civil disobedience or offer ethical standards which not based on shared conception of justice. More precisely, Rawlsian account excludes not only protest about economic issues but also protests about animal and environmental rights. So, Rawlsian account is anthropocentric as well as secularized (Milligan, 2013, p. 14). This element is controversial, there are some studies which try to broaden the concept. Consider the case, Jennifer Welchman argues that: “eco-saboteurs address and/or does not appeal to the public’s sense of justice or human welfare. But they should be considered as civil disobedience because their objective was to get the job done. Just because, Rawls/Cohen formulations in the 1970s are no longer applicable and that the question of civil disobedience should be revisited” (Welchman, 2001). Also, Keith Mann argues that rescuing animals from experimentation is civil disobedience (Mann, 2009, p. 67).

More precisely, he clearly praises civil disobedience instrumental value for systems. Because, he argues that civil disobedience has a special role in stabilizing democratic regimes (Rawls, 1971, p. 293). Thanks to civil disobedience one intends to address the sense of justice of the majority and show one’s sincerity by fidelity to the law. According to Rawls, civil disobedience aims to that laws or policies are morally wrong, unjust according to sense of justice of the society and invalidity of the law

legally (Rawls, 1971, p. 335). Thanks to civil disobedience, government can see the unjust, invalid laws and policies so change and reform them.

Joseph Raz and John Morreall justify civil disobedience for the sake of individual autonomy. They underline the importance of human flourishing, people should act autonomously not by forced choices, but according to their own conception of good life. Briefly, there are different definitions of autonomy: “it is capacity to engage with value through the action of choosing” (Raz, 2001, p. 157), “it is making something out of their lives according to their own understanding of what is valuable and worth doing” (Wall, 1998, p. 128), or “autonomy is ability to be in control of her own life” (Moraro, 2010, p. 74). Thinkers who attribute intrinsic value to autonomy, argues that coercion is bad just because there is *prima-facie* right for autonomy.

Firstly, Joseph Raz offers us definitions of autonomy, toleration, political freedom which his justification of civil disobedience is constructed on. According to him: “there is no obligation to obey the law, even at good society with just institutions” (Raz, 1979, p. 233). To remind previous thinkers, Socrates does not justify disobedience even unjust laws. On the other hand, Raz thinks that Rawls does not adequately justify civil disobedience because, unlike him, there is no obligation to obey the laws even at democratic just institutions. Related to this point, Raz criticizes Peter Singer (1973), who advocates *prima facie* obligation to obey the laws. Singer offers two reasons to obey the laws as an obligation. Firstly, just because we vote, we also have an obligation to obey the laws, voting bring responsibility. Peter Singer’s reasoning is consent theory, one consented to obey the majority decision at the end of election. Peter Singer’s second reason for *prima facie* obligation is he considers democratic procedure as a fair way to compromise between different parties. Joseph Raz partly agree with Singer at this point, we should support democratic procedures and just governments, but support does not mean obligation to obey the laws. Raz second reasoning is more persuasive, just because a solution is reached by democratic procedure does not make this solution just also (Raz, 1979, p. 242).

In other words, Raz argues that laws have only instrumental value, not an intrinsic value which is the main justification ground for civil disobedience. He also argues that as there is no *prima facie* obligation to obey the laws, there is also no *prima facie* obligation to disobey the laws (Raz, 1979, p. 250). There can be respect for law, and

individual can obey the law, and feel this as an obligation, just because one has a respect to laws. To illustrate the point, he gives the example of friendship, one start to expect from someone certain degree of respect and way of behaviors but this does not mean friends have obligations to each other (Raz, 1979, p. 258).

Joseph Raz relates his definitions of autonomy, pluralism and toleration with his justification of civil disobedience. Raz argues that: “The doctrine of political freedom with which this book concludes is based on the values of pluralism and autonomy... political freedom is derivable from the value of personal autonomy” (Raz, 1986, p. 400). First of all, we need personal autonomy, if we want to talk about personal freedom. In other words, for justification of civil disobedience, we need autonomy which is possible with political freedom. Moreover, Raz argues that governments cannot pursue any conception of good life, there should not be ideals at politics. In this context, political freedom reflecting anti-perfectionism (Raz, 1986, p. 400). This assumption is crucial to be able to justify civil disobedience for every thinker. Consider the case, if we do not have democratic legislation and constitution then it is impossible for us to talk about justification of civil disobedience. Rule of King, dictator or religious leader cannot tolerate criticism against laws, because laws are made according to their perfect ethical standards. For example, at SSCB, Nazi Germany or today’s Iran, individuals cannot act according to their autonomy. They must act according to forced decision, ideal choices which is prescribed by the political power. In other words, just because we cannot talk about autonomy, there is no political freedom. So, justification of civil disobedience is impossible at these kinds of regimes. One may choose to revolt and overthrow the government, rather than pursuit of change or reform at these regimes, rather than undertake civil disobedience for a change or reform at the laws and policies of the government. Because, as Raz underlines there are already ideal, perfect laws at these regimes according to authorities which can’t be criticized or changed according to individuals’ demands for a change.

Moreover, he argues that, toleration is prerequisite for autonomy and political freedom (Raz, 1986, p. 477). He also refers toleration as a duty, without toleration we cannot talk about autonomy and political freedom. These definitions are important because, he constructs his justification of civil disobedience on these definitions. Freedom is defined as a contrast to coerced decisions, which is characteristic feature of authoritarian political powers. Good life can be created, only if individual can flourish

himself autonomously, otherwise life has no meaning and value at all. Respect for autonomy, toleration is directly related with political freedom which are the prerequisites for justification of civil disobedience. Justification of civil disobedience is possible if we are able to show that human being has an intrinsic value, while laws have an instrumental value.

Also, there is another point to underline, if one does not have certain degree of self-awareness, in other words capable to understand possible choices, then one has no autonomy at all. Paper tries to underline the point with its relationship with responsibility. As he himself puts it: “autonomous life calls for a certain degree of self-awareness.” (Raz, 1986, p. 371). For example, person who has no certain degree of self-awareness children, insane or mad cannot hold responsible for their actions, according to all authorities, states, religions etc. But, as Thoreau, King also underlines just because we are moral being, we have personal responsibility for injustice.

Raz makes distinction between *mala per se* and *mala prohibita*. Briefly, *mala per se* means that wrong in itself, independently from regulations and laws. In contrast, *mala prohibita* means something is wrong only because it is prohibited by authority (Raz, 1979, p. 247). To give brief explanation of what they are: for example, we believe in that murder, rape, stealing is wrong, it is accepted by most of the people all around the world, they are examples of *mala per se*. On the other hand, there are some crimes, not because they are inherently bad, wrong but only because of prohibition of laws. For example, law in Turkey requires drivers to drive on the right side of the road. On the other hand, Raz chooses a controversial example which can be used for both reasoning, his example is polluting the rivers. It is morally good to keep rivers clean, but it can be achieved only if large number of people act the same way. In other words, from utilitarian point of view, one may argue that law and institutions are good, but it does not follow there is an obligation to obey laws (Raz, 1979, p. 249).

Briefly, he tries to find under what circumstances there may be moral right to break the law. If there is, then there may be a legal recognition of civil disobedience too. He also clearly states that he does not try to justify civil disobedience but tries to find out whether there is a moral right to civil disobedience in certain circumstances. (Raz, 1979, p. 263). He also gives example of legal strike of ambulance workers, to show that nonviolent acts may cause more harm than violent protest.

Also, he relates his previous views on autonomy and having rights with civil disobedience. This part has a vital importance to understand Raz's justification of civil disobedience. According to him there is a misunderstanding at the first place about the nature of rights. As he himself puts it: "one needs a right to be entitled to do that which one should not. It is an essential element of rights to action that they entitle one to do that which one should not" (Raz, 1979, p. 266). If we remember Raz views about political freedom and personal autonomy he says autonomy is opposite of coerced decisions. And we need toleration to moral pluralism and freedom. Again, now he underlines the important point one should have all options, choose for himself rightly or wrongly. Government duty is to protect autonomy of the individuals, nothing more.

On the other hand, Raz also criticizes some bad critics on justification of civil disobedience. According to him first bad argument is, sometimes people criticize dissenter just because one's morally just civil disobedience may encourage others to break the law for unjust reasons. Raz argues that it is a "*non sequitur*".² (Raz, 1979, p. 269). Second bad argument is: if one allows himself to undertake civil disobedience for his political goals, but deny others to do the same, it would be unfair, it is "*ad hominem*"³ (Raz, 1979, p. 270).

According to Raz, there are two kinds of states: liberal and illiberal. He differs them according to their recognition of liberal principle and protection of it by laws. So, "there is right to undertake civil disobedience at illiberal states, but there is no such a right at liberal states" (Raz, 1979, 262). In other words, just because there, liberal principle is not recognized and protected by laws, individuals have right to civil disobedience at illiberal states.

On the other hand, John Morreall justifies civil disobedience by praising possibility of diminishing of individual autonomy. He makes his unique contribution to topic by justifying even violent civil disobedience. More precisely, he justifies violent civil disobedience by offering types of violence. Morreall argues that: "disobedience can be violent and justifiable" (Morreall 1991, p. 131). He argues that people mostly tend to think about instances that physical force being used, but there may be some acts of violence which no physical contract is made. According to Morreall, the founder of

² *Non sequitur* is a logical fallacy where a stated conclusion is not supported by its premise.

³ *Ad Hominem* is a logical fallacy which means that "calculated to appeal to the person addressed more than to impartial reason".

the term “civil disobedience” is Thoreau and he did not consider nonviolence as a necessary feature of the term. Also, King, consider nonviolence as a tactic of civil disobedience, but not necessarily the one. He constructs his arguments on criticism of Bedau’s definition of violence and his assumption that non-violence is a defining feature of civil disobedience. Morreall argues that there is not only physically violence, but also psychological violence. Eliminating or diminishing one’s autonomy is a kind of violence (Morreall, 1991, p. 132). Briefly, violent civil disobedient can be justifiable, if state use violence on individuals. He links this view with his underlying of prima facie rights. Man has rights to life, liberty and the pursuit of happiness, just because he is human. He links prime-facie rights with justification of violent civil disobedience. He gives the example of parents, who may not harm their children’s body, but can-do violence to them by eliminating their autonomy completely, command them at their every decision, so it is kind of violence, psychological one.

More precisely, there is not only physical but also psychological violence, so it is disputable concept and can be justified at some situations. People are criticized to use violence to bring change or reform at the law by undertaking civil disobedience. But main issue we have to think about, is the difference between “coercion” and “persuasion”, coercion implies physical or psychological violence. Crucial point for Morreall is violation of prima-facie rights, which justify use of violence by individuals too. To illustrate the point more precisely he uses the example of violence against slaveowner. Consider the case, at 1850’s slave runaway, and if slaveowner has almost caught up with him, Morreall would choose to fistfight with slaveowner to give some time to slave to get away. On the other hand, according to the law at that time, people should help slaveowners to capture their slaves. Later Morreall give more recent example and relate it with previous example, some people damage draft files in the protest of Vietnam War, they respect prima facie rights of the human being, rather than unjust laws. To conclude, according to Morreall: “an act of civil disobedience can be justifiable when it violates the prima facie rights of persons, because these rights are not absolute and can be superseded by higher moral claims” (Morreall, 1991, p. 139). He also argues that destruction of draft files is more effective than peace marches, so it can be justifiable (Morreall, 1991, p. 143).

Thoreau, King, Bedau, Rawls, Raz and Morreall consider civil disobedience as a moral principle, according to degree of justice of the laws. In this context, justice and

individual autonomy has intrinsic value, while laws have instrumental value. So, sometimes disobedience is moral and obedience to laws is immoral.

5.2 Civil Disobedience as a Moral Value

Hannah Arendt, Daniel Markovits and Ronald Dworkin consider civil disobedience as a moral value. They argue that disobedience is morally right, because our democracies and republics may benefit from disobedience. There are different understanding and theories of consequentialism, but for the sake of paper, we only analyze Arendt's and Markowitz's and Dworkin's explanations. They argue that disobedience is to be morally assessed only by the states of affairs disobedience brings about.

Before detailed analysis, briefly, Arendt argues that our republics are in crisis, just because of lack of participation in politics by individuals. So, to overcome this crisis we need legal recognition of civil disobedience, if that happens civil disobedience groups have a qualified opinion to influence Congress by means of persuasion. In other words, use of civil disobedience to reach active participation as a consequence (Arendt, 1972, p. 101). Secondly, Daniel Markowitz underlines the important function of civil disobedience at democracy. He argues that democracies have inevitable deficits, just because they are not ideal and perfect. So, civil disobedience can be used as an instrument to be correcting democratic deficits (Markowitz, 2005, p. 1903). Thirdly, Dworkin argues that, in contrast to the view that society will worse-off in the long run, "it does not follow, it will collapse if it tolerates some (Dworkin, 1977, p. 206). Because, civil disobedience can be used to challenge and question law according to its constitutionality (Dworkin, 1977, p. 212). Because, Supreme Court, likely to overrule its past decisions as we saw in history (Dworkin, 1977, p. 211). Briefly, Arendt and Markowitz underline overcoming democratic deficits, Dworkin praised constitutionality of laws as a common interest.

Hannah Arendt argues that we must find not only moral but also legal justification of civil disobedience. Because of that, her understanding of civil disobedience is very narrowed. First of all, she thinks that civil disobedience is unique for USA. Secondly, she criticizes individual who breaks the law to test its constitutionality, unlike Dworkin. So, thirdly she distinguishes civil disobedience from conscientious objector. Conscientious objector refers to individual conscience or individual acts to justify their disobedience, but these "higher law be it secular or transcendent inadequate when

applied to civil disobedience” (Arendt, 1972, p. 54). So, Arendt do not consider Thoreau’ dissent as a civil disobedience, for common opinions and actions are needed to undertake civil disobedience. She also argues that Socrates never tries to challenge the laws itself, he has a problem not with laws, but with miscarriage of justice, its unjust application. On the other hand, according to her, Thoreau made the term “civil disobedience”, most of the thinkers share the same ideas, just because of the name of the Thoreau’ text “*On the Duty of Civil Disobedience*”. Arendt points out very crucial point, Thoreau does not refer to citizen’s moral and law contradiction but refers to another relation: “individual conscience and conscience’s moral obligation” (Arendt, 1972, p. 60). To conclude, she differs conscientious refusal from civil disobedience. Civil disobedience should aim to mobilize people and make a change at the specific law. According to her: “civil disobedience is the latest form of voluntary association, which is the oldest tradition of the country” (Arendt, 1972, p. 96). She also argues that: “strength of opinion does not depend on conscience, but on the number of those who shares it, because it becomes an opinion rather than individual conscience, unlike Thoreau and Socrates cases” (Arendt, 1972, p. 67). To conclude, according to Arendt: “establishment of civil disobedience among one of the political institutions of USA might be the best possible remedy. First step should be the same recognition for the civil disobedience minorities with the special interest groups, registered as lobbyist” (Arendt, 1972, p. 101). So, civil disobedience groups have a permission, a qualified opinion, to influence and assist Congress by means of persuasion

Moreover, according to her, there is relation between civil disobedience with problems of democracy, she offers legal recognition for this kind of breach of law for the sake of improvement of democracy. She constructs her justification on civil disobedience’s instrumental value of it to overcome crisis of our republics. More precisely, Arendt relates consent theory with civil disobedience to justify it. To be able to do that she gives brief explanation of three social contract theory with aim to show that today’s republics have a crisis. Three social contract theories are: Biblical covenant, Hobbesian model and Locke Model (Arendt, 1972, pp. 85-86). Arendt relates third model with USA which she believes has a consent theory just because its features. She argues that, our republics is crisis because of citizen’ actual participation and corrupted party system. So, we can overcome these crises by legal recognition of civil

disobedience, which not only justify civil disobedience morally, but also legally (Arendt, 1972, p. 89).

She praises autonomy-authority contradiction and relate it with consent theory to justify civil disobedience. More precisely, she relates third kind of model, Locke model, with American democracy, and pointed its most important feature by referring to Tocqueville again. Tocqueville admired American society, especially because of the importance of the voluntary associations. She refers to Tocqueville, because he underlines the importance of principle of association in America. So, Arendt also tries to underline the importance of plurality for the American kind of contract. Individuals' autonomy does not completely disappear at Locke model, America. Arendt uses Tocqueville views about American society to enter her assumptions and solutions. According to Tocqueville minorities at America show their strength thanks to voluntary associations against the power of majority. So, voluntary associations can be used as a pressure groups and lobbyists to improve American democracy. According to Arendt, civil disobedience is the latest version of the voluntary association, which is the oldest traditions of the country. As a quick note to remind Tocqueville' views, he admires not democracy itself but democracy in America. He analyzed some features of American society, these are local governments, civil associations and spirit of religion. Thanks to power of these features' American democracy flourish. Thanks to civil associations people initiate, cooperate and take responsibility for change, so to underlines these features of American society Arendt refers to Tocqueville. Rather than expect everything from state or government, Americans mobilize thanks to civil society and take responsibility to not only make changes but also prevent, control power of the state and government. This is also exactly what civil disobedience tries to do, take initiative for change, even they contradict with laws.

Hannah Arendt also makes a distinction between tyranny and authoritarian government. According to her difference is: "tyrant rules accordance with his own will and interest, whereas even the most draconic authoritarian government is bound by laws" (Arendt, 1961, p. 97). In other words, authoritarian governments rule according to higher law rather than his own will, Platonic ideas or God commandments. So, they get their legitimacy so power can be checked. So, we can say that even some thinkers argue that civil disobedience can be justifiable only at liberal states, apart from

tyrannies every kind of government's legitimacy, so authority can be checked (Arendt, 2003, p. 244). It is very important point to think about justification of civil disobedience in details. Civil disobedience subject dealt with contradiction between law and ethics, roughly speaking. As all civil disobedience examples show us, they have fidelity to law, on the other hand at some point there can be no moral value of laws at certain regimes at all. Check and control systems have, as laws, only instrumental value and need and depend on civil initiative. It is very likely to elected person became the only source of every decision. Laws, including those he gives himself, will impose certain limitations on his otherwise boundless power. Even as we saw at the very similar examples, he can share this view to get support from people. He dares to share opinion every detail of daily life, including science, sports, religion, health, art etc. at some point, laws and regulations lost its meaning, just because everything is designed according to his will. More precisely, civil disobedience is not lawlessness or anarchism, civil disobedient wants to change or reform at specific laws which is unjust according to his ethical standards. In other words, civil disobedience is a chance to do no wrong not only for civil disobedient, but also for others to think about the case in details.

Secondly, Ronald Dworkin's justification of civil disobedience clearly represent the instrumental value of the concept, it can be used to test constitutionality of the laws. He tries to show civil disobedience's importance, to correct our governments' mistakes. More precisely, civil disobedience can be used to test the constitutionality of law, which produce common good (Dworkin, 1977, pp. 216-217).

As Bedau construct his argument against Dean Griswold, Dworkin also criticize same names. The argument which Dworkin criticize is: if the government tolerates those who disobey and not play the game, it means that they benefit of the they are become free rider. So, society always expect their officials to punish anyone who disobey the law. They underline the essence of law and argue that if there is disobedience to law, just because it is a breach of law, disobedient must be punished. Dworkin underlines another point to prove that law is invalid, which means that no crime is committed. So, even one undertakes civil disobedience, one should not be punished. Crucial point is that, validity of law may be doubtful, and civil disobedience may prove it (Dworkin, 1977, p. 208).

Moreover, some argues that society cannot endure if it tolerates all disobedience, as paper analyzed at the previous chapter. In other words, apart from their moral value, they argue that in the long-run society worse-off because of civil disobedience. In contrast, Dworkin argues that: “it does not follow, however nor is there evidence, that it will collapse if it tolerates some” (Dworkin, 1977, 206). Even, Dworkin, underlines the importance of questioning the constitutionality of law by civil disobedience. He also underlines that even Supreme Court overrule its past decisions (Dworkin, 1977, p. 211). There is always possibility of overruling decision to laws which dissenters contradict with.

Furthermore, Dworkin gives the example of draft cases which is related with the Vietnam War. Some take responsibility, and do not want to be soldier at the war which they condemn morally. There is long analyze of this view and different interpretation of both moral and legal laws, but for the sake of paper, I try to give brief summary. Individuals who believe that not only decision process but also war is unconstitutional. It is important to be aware of that what Dworkin tries to do is completely different from Thoreau. While Thoreau act autonomously according to his ethical standards and refuse to obey what is legal just because it is immoral, Dworkin tries to show that different interpretation of the constitutions and laws are possible. In other words, draft offenders may believe that they act according to constitution. In Dworkin case people refuse to be part of not ethically wrong, but legally wrong, for some reason, that is right to do as they are doing. Dworkin ask very controversial question: “What should a citizen do when the law is unclear, and when he thinks it allows what others think it does not?” (Dworkin, 1977, p. 210). Briefly, answer of this question represents the civil disobedience’s instrumental value and Dworkin’s justification of civil disobedience.

After Dworkin argues his first assumption about justification of civil disobedience: possible different interpretation of the law. Then he offers his second assumption: we can actually benefit from this contradiction. As this paper also underlined at the beginning of the paper, enrichment thanks to permanent dialogue is possible. He does not directly answer the question that he asked about different interpretation of the law, but consider three possible answer in details: first scenario is, if the law is doubtful and whether it permit one to act as one wants, one should assume the worst. One should obey the executive authority, even he thinks they are wrong. Second scenario is, if the

law is doubtful, one may act according to his own judgement, until the court decides the other way around, for him or somebody else at the same situation. After the decision has made, he may obey the decision, even he think that it was wrong. Last scenario is, If the law is doubtful, he may still act according to his own judgement, even after the contrary decision by the highest competent court (Dworkin, 1977, p. 211). What Dworkin tries to show is, dissenter may be sincerely believing that law is unconstitutional, his questioning not worse-off the society, but it is the chief vehicle to challenge the laws. Some think maybe there is no difference between second and third, but third gives greatest weight to decisions of the Supreme Court. Dworkin also tries to show that there is no conclusive court decision by giving different overrule examples of Supreme Court. Even years later, Supreme Court as a highest court not only overrule lower courts decisions but also itself.

After brief explanations of possible cases, Dworkin tries to show the value and advantages of these contradictions. In contrast to view that if everybody disobeys the laws, it would cause chaos and anarchy, in the long-run society worse-off; Dworkin argues that if everybody blindly obeys the laws, laws certainly become less fair and just. Individuals can appeal to courts to question laws validity, constitutionality (Dworkin, 1977, p. 212).

With this assumptions Dworkin reach a conclusion, his justification of civil disobedience: Government have a special responsibility to try to protect individual, and soften his punishment, as far as it does not damage other policies. What Dworkin try to show us that, there can be reasonable judgement, interpretations of dissenters and thank to them we test the validity of all. According to him, just because they are not so frequent, they do not cause much harm to the system, they do not make system unworkable we should tolerate them.

Lastly, Daniel Markovits justifies civil disobedience by underlying its function at democracy. According to him, civil disobedience can be used as an instrument to overcome democratic deficit (Markovits, 2005, p. 1902). He argues that, first condition to have democratic sovereignty is to believe in its inevitable democratic deficit by occasions. So, democratic political authority suffers, just because of its own features, has a deficit inevitably, so this deficit open door to political disobedience (Markovits, 2005, p. 1903).

Markovits prefers “political disobedience” rather than “civil disobedience”, because he emphasizes connections to political theory that he wants to elaborate (Markowitz, 2005, p. 1898). More precisely, it can be used to correcting democratic deficits. Same point also, underlines especially by Dworkin and Arendt. Dworkin also emphasizes the individual initiative to test the validity, unconstitutionality of the law. Markovits has a controversial assumption, we should be aware of the fact that democratic deficit is inevitable threat for every democracy. This assumption is one of the most persuasive justification of civil disobedience. Arendt also tries to use civil disobedience to defeat democratic deficit, because she believes that American type of republics have the crisis. Apart from previous thinkers that we analyzed, Markovits and Arendt not only try to justify civil disobedience, but also emphasizes that this special kind of protest can be used to overcome democratic deficits, by legal recognition.

He also underlines a point, most of the thinkers refer to the judicial review, because courts drawn the limits of democracy by protecting fundamental rights, which is also undemocratic political practice. At this point he also mentions Rawls, if we remember his justification, according to Rawls, individual cannot appeal to principle of personal morality or to religious doctrines. It would mean that he focuses on his own self-interest, civil disobedience should appeal to the shared conception of justice which is constitution and state constructed on. On the other hand, Markovits try to create an alternative approach, political disobedience can enhance the democracy even no rights are at stake (Markovits, 2005, p. 1904). So, these assumptions open up space for political disobedience. More precisely, he wants to use civil disobedience same as we use judicial review nowadays.

He underlines to importance of individual participations to politics, to overcome democratic deficits. But process does not end with building inertial practices and institutions, because even they create democratic deficits, by their nature. If we are not involved the decision process, then we can’t overcome the democratic deficit. Also, he underlines important point: “Such disobedience is a necessary part of every well-functioning democratic politics and not merely a defense against authoritarian oppression. It is distinctively democratic disobedience” (Markovits, 2005, p. 1949). He clearly praises the instrumental value of disobedience for our democracies and justifies democratic disobedience. While liberal disobedience only effective for the

individual rights' protest such as civil rights movement, on the other hand, democratic disobedience pursues processes rather than outcomes.

Arendt, Dworkin and Markowitz underline the goodness produced by disobedience to justify it. In this context, disobedience is moral, just because it can be used to overcome democratic or constitutional deficits.

5.3 Civil Disobedience as a Practice of Virtue

On the other hand, Piero Moraro consider civil disobedience as a practice of virtue. He argues that civil disobedience is sometimes not only permissible but also praise-worthy and consider it as a virtue. Civil disobedience is praise-worthy because, good citizens sometimes disobeys the laws. Good citizen is who respect another citizens' autonomy. Autonomy is the condition of choosing her conception of good life. As he himself puts it: "Value of the democracy also come from its protection and promotion of autonomy of its subjects" (Moraro, 2010, p. 6). In other words, democracies, laws and civil disobedience has instrumental value, while autonomy of individuals has intrinsic value. As he himself puts it: "The main reason for an individual to obey a particular law X is that X is part of this larger system, backed by some fundamental principles: in my view, this principle is the value of individual autonomy" (Moraro, 2010, p. 38). In this context, civil disobedience is undertaken as a respect to individual autonomy, and it does not depend on neither consequences nor degree of justice. At every regime civil disobedience, apart from its degree of justice, can be undertaken as a practice of virtue.

First section analyzed the views that consider civil disobedience as a moral principle from duty ethics point of view. Second section analyzed the views that consider civil disobedience as a moral value from utilitarian ethics point of view. At this section, Moraro uses Aristotelian virtue-ethical account (Moraro, 2010, p. 6).

He also refers that mostly thinkers argue that just because, citizens have legal means available to participate democracy. So, if the system is nearly just, there is no need for breach of law, civil disobedience. But, Moraro argues that there is no perfect democracy (Moraro, 2010, p. 11). They are not utopias, so we can only talk about more just or more democratic (Cohen & Arato, 1992, p. 567). So, Moraro reach a conclusion

democracy are imperfect, by their nature. So, citizens have a right to underline problems of democracies by undertaking civil disobedience (Moraro, 2010, p. 12).

Moraro challenge the assumption that disobedience is not justified at just society. This view assumes that if state is close to ideal of democracy, it become harder to justify it. In contrast to this view which justify civil disobedience sometimes, Moraro argues that even at democratic societies, citizens can undertake civil disobedience (Moraro, 2010, p. 13). In contrast to King, Rawls and Raz who focus on regimes to justify civil disobedience, Moraro justify civil disobedience even at reasonably democratic societies, because they are also not perfect. Moraro also criticize Rawls justification of civil disobedience. Because, Rawls argues that civil disobedience is suitable only nearly just societies. Because, Moraro justify civil disobedience for the intrinsic value of autonomy, he claims that justification is not depend on degree of justice. This point also related with Rawls views about shared conception of justice, he argues that civil disobedience has to appeal shared conception of justice, rather than individual ethical standards. In contrast Moraro argues that: "it is because people do not share the same conception of what is just that CD represents a valuable instrument in a pluralist democracy" (Moraro, 2010, p. 54). More precisely, Rawls argues that civil disobedience aims to communicate with others to persuade them, rather than coerce them by force. So, he uses instrumental approach and focus on consequences rather than act itself. On the other hand, Moraro consider civil disobedience as a virtuous act even at Nazi Regime, which government would be willingness to accept message sent by dissenters. So, Moraro argues that Rawls understanding of civil disobedience is too restrictive. Because, there is a lot between Nazi Regime and ideal just society, they may neither call just, nor ideally just. Important point is that civil disobedience is undertaken for the sake of individual autonomy, and it does not depend on neither consequences nor degree of the justice.

According to him, there is moral obligation to respect the law. Unlike other thinkers who argues that there is obligation to obey law or not, he talks about respect to law. This point is related to approach that he uses. Because, thinkers mainly use two approach to praise obligation to obey the law: either they use utilitarian approach and underlines the goodness produced by general compliance to law. Or they use deontological approach and underlines the independent duty to obey laws. In this context, civil disobedience has non-instrumental value, when it is civic (Moraro, 2010,

p. 25). Just because Moraro uses Aristotelian virtue ethics, he argues that virtuous action is not always obedience or disobedience. We must look at the situation which it is performed. Also, not only disobedience, but also obedience needs justification. In other words, virtuous action neither always obedience, nor always disobedience. It requires active citizenship (Moraro, 2010, p. 37).

Moraro also differ compulsion from coercion to justify civil disobedience. As we saw before, coercion is bad because it is using person's will as an instrument to achieve coercer's goal (Moraro, 2010, p. 82). So, just because individual autonomy has intrinsic value, civil disobedience justify compulsion, but not coercion. In this context, civil disobedience is a compulsion to fulfil the duty to respect autonomy (Moraro, 2010, p. 94).

Moreover, Moraro also makes a distinction between rational and reasonable. Paper also makes a distinction between selfish and self-interested. In this context rational as selfishness, and reasonable is self-interested. More precisely, civil disobedience aim offers reasons others could not reasonable reject (Moraro, 2010, p. 100).

Furthermore, Moraro considers conflict as a constitutive element of politics. During the discussions our opinions may change or move closer. It also means that willing to persuade and persuaded. At this point he refers to Habermas' ethics of discourse: "Every valid norm would meet with the approval of all concerned if they could take part in a practical discourse" (Habermas, 1990, p. 65). More precisely, validity of norm is not defined by individual alone, but via rational discourse involving all moral individuals. Again, he criticizes Rawlsian understanding of "veil of ignorance" which is individualistic, not achieved after process of communication with others. More precisely: "Rawls is confident that basic structure will guarantee society's stability and that actions of civil disobedience is justifiable only to the extent they aim at rectifying a violation of the shared conception of justice" (Moraro, 2010, p. 125). But, justifying civil disobedience only according to shared conception of justice is too restrictive. It does not allow contesting norm. But, conception of good should be compared and contested with others. Because, of that Moraro called Rawlsian framework as uncivil (Moraro, 2010, p. 129).

Briefly, Moraro argues that autonomy has a social nature, and individual needs communal life to achieve well-being. Democracy is good, just because it allows people

to protect and promote individual autonomy. So, he prefers respect for law, rather than obligation to obey them. We respect it, because it is good for individual autonomy. In other words, obedience not because of intrinsic value of the law, but its instrumental value, for individual autonomy (Moraro, 2010, p. 1887). So, civil disobedience may be a criminal wrong but is what reasonable citizens would do at some circumstances. So, it is not only something should be excused, but also, praiseworthy.

5.4 Conclusion

To conclude, chapter underlined the intrinsic values which are offered by thinkers to justify civil disobedience. More precisely, thinkers refer some intrinsic values to praise civil disobedience's instrumental value to justify it. In other words, civil disobedience itself has no moral value, nobody undertakes civil disobedience for the sake of civil disobedience itself. But individuals undertake it, use it as an instrument, for some intrinsic values. These values are: justice, autonomy, democracy, common interest.

Chapter analyzed justifications into three main categories: civil disobedience as a moral principle, civil disobedience as a moral value and civil disobedience as a practice of virtue. More precisely, at the first section, while Thoreau (1849), King (1963) and Bedau (1968) underlines "justice"; Raz (1979) and Morreall (1991) praise "autonomy" and they consider civil disobedience as a moral principle. Thoreau and Bedau underlines the personal responsibility for injustice. King refers "natural law" and Rawls offers "justice as fairness" to justify civil disobedience. Raz and Morreall justify civil disobedience for the sake of individual autonomy. According to them there are laws just to protect and promote individual autonomy. In other words, laws have only instrumental value, while autonomy of individual has intrinsic. So, for the sake of individual autonomy civil disobedience can be justified.

At the second section, while Arendt (1972) and Markowitz (2005) emphasize "politics and democracy", Dworkin (1977) indicate "common interest" and they consider civil disobedience as a moral value. Arendt and Markowitz justify civil disobedience, because they use it as an instrument to overcome our democracies inevitable deficits, and republic's crises. They justify civil disobedience not only morally, but also legally. Because, they argue that civil disobedience should be one of substances of politics. More precisely, while King argues that: "discontent can be channelized through the creative outlet of nonviolent direct action" (King, 1963, 4). King accept that civil

disobedience is a breach of law. In contrast, Arendt and Markowitz consider civil disobedience as a one of “channel”, substances of politics, to participate politics. Lastly, Dworkin justify civil disobedience to questioning constitutionality of laws, which produce common interest. More precisely, dissenters may sincerely believe that law is unconstitutional, and prove it. Because, Supreme Court, likely to overrule its past decisions as we saw at the history (Dworkin, 1977, p. 211). In this context, civil disobedience is not about morality of the law, but its constitutionality.

At the third section, Moraro (2010) indicates importance of respect to autonomy of fellow citizens and consider civil disobedience as a practice of virtue. Our duty towards the law, reflects our more fundamental duty to respect our fellow citizens’ autonomy. In this context, civil disobedience is not something that should be excused, but it is praiseworthy. Paper tries to make explicit these argumentations to show why we still need a concept of civil disobedience, why we should not reject civil disobedience concept or marginalize it.

To conclude, thinkers at this chapter argues that moral and legal justifications are separate, action may be illegal but also moral. In other words, thinkers which is analyzed at the previous chapter has argued that it would be immoral to disobey the laws, morality requires obedience to laws. In contrast to this view at this chapter paper analyzes the views that in some circumstances it would be immoral to obey the laws, morality requires disobedience in different contexts.

6. CIVIL DISOBEDIENCE AS AN OBEDIENCE

This paper aims to show that why civil disobedience should be justifiable. Civil disobedience should be justifiable, because the one who disobey the law may has argument which contains the element of right, and silencing it prevent the possible public debate on the issue. Civil disobedience should be justifiable, because it can be illegal, but also can be morally right and just. As paper analyzed at previous chapters, one who undertake civil disobedience, actually obey various moral rules and principles. They aim to persuade others on injustice of specific law and policy, according to various moral values and principle.

In this context, paper argues that there is nothing valuable neither in obedience nor in disobedience to laws and political authority per se. On the other hand, paper aimed to show that in some circumstances it would be immoral to obey the laws, morality requires disobedience in different contexts. So, at this chapter paper tries to show that why we should not refuse and marginalize civil disobedience.

There are two sections at this chapter. First section criticizes the five main arguments which refuse justification of civil disobedience. They refuse the civil disobedience concept and consider it as an ordinary breach of law, but they are wrong. In contrast to them, i claim that civil disobedience is not an ordinary breach of law. In other words, paper makes explicit the views which refuse civil disobedience concept and offer its criticism of these argumentations.

At the second section, i give my own argumentation. Civil disobedience not only can be justified morally, as a moral principle, moral value and practice of virtue; but also, can be justified politically, because it has instrumental value to overcome inevitable democratic deficits and to participate politics. I underline the common good, offer my pre-conditions, make explicit its role for political justification and finally make explicit the possible implications of civil disobedience. Civil disobedience represents the belief that “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33). Governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became

more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. Using violence against opponents and punishing only cause further democratic deficit and legitimacy problems. On the other hand, apart from the morality of individuals who undertake it, it has a great influence on every dimension of politics, society and government, as we have seen at civil disobedience examples of the last decade. In contrast to ordinary breach of law, civil disobedience represents the presence of an individual who respects the law. So, it not only tolerable, but also praise-worthy.

6.1 Why Should We Not Reject Civil Disobedience Concept?

Section criticizes the views which refuse civil disobedience concept and not justify it, to show why we should not reject the concept and marginalize it. There is an argument: law that exist is a just law, it is an obligation to obey it. Also, there can't be overriding moral values and principles to disobey it. To illustrate logical structure behind this view:

- If one right and moral, then one obeys the law.
- One does not obey the laws.
- Then one is wrong and immoral.

When it comes to the topic of civil disobedience, most people agree that it is a breach of law. Where this agreement usually ends, however, on the question of: is the fact that some action is illegal an overriding reason not to perform it? Whereas some are convinced that just because civil disobedience is breach of law, neither moral nor legal justification is possible. In contrast to this view, I contend that they are false.

More precisely, paper argues law and ethics are distinct, in the first place. On the other hand, constitutionality, validity of law may also be doubtful. In other words, paper argues that moral and legal justifications are separate, action may be illegal but also moral. There are various overriding intrinsic moral values to disobey the laws. In various circumstances it would be immoral to obey the laws, morality requires disobedience in different contexts. For example, one who disobeys the law under Nazi Regime can be right and just.

Five main arguments came into prominence at the criticism of disobedience to law. They claim that disobedience to law is immoral and obedience to law is moral. I make

explicit these five main arguments and criticize them step by step, because i contend that they are false. Civil disobedience can be justified and undertaken as a moral value, moral principle and practice of virtue.

Firstly, there is essence of law argument which means that law that exist is a just law. So, it is morally and legally unacceptable to disobey laws. There is obligation to obey the laws, and there can't be overriding moral values to disobey laws. This understanding attribute value to law itself, obedience is moral and duty. Law is equally applied to all citizens, moral justifications are meaningless, because we cannot talk about morality without laws, if there is a breach of law, then there must be punishment, individuals are coerced to obey laws.

In contrast to law exist is a just law view, i contend that there may laws which are unjust or unconstitutional. What differ democracy from other system of government is individuals have intrinsic value, while laws have instrumental value. In this context, there is no law that can't be reformed or abolished by demands of individuals. One may say, laws can be changed only by legal institutions, i reply they sometimes enacted unjust or unconstitutional laws and policies, so civil disobedience can correct the government. On the other hand, civil disobedience also accepts the law is equally applied to all citizens and have fidelity to laws. All of the constituents that attributed to civil disobedience can be considered as pre-conditions to justify it, which aim to show its sincerity and fidelity to law. It is not selfish demand to be a free rider but demand a change or reform at specific laws or policies according to various moral laws and principles. Also, blind obedience to law cause worse-off of the society in the long run. Without civil initiative, control, criticism of laws and policies we are destined to despots.

Secondly, in discussion of civil disobedience, one controversial issue has been social contract traditions. On the one hand, Biblical covenant and Hobbes social contract explanation does not justify civil disobedience. Hobbes underlines life as a highest good, life is a precondition for all other goods and values, so first task is to secure life. To secure from state of nature, Hobbes offers a sovereign which is product of consent of the governed, representative of the people Sovereign not only has absolute and undivided power, but also law is what he says. Because of this understanding, sovereign can never act unjustly, because he is source of the rules of justice. In this

context, there is neither legal nor moral justification of civil disobedience. Also, according to Rousseau's social contract understanding, just because general will is the source of freedom, individuals to not fit it, may be forced to fit (Rousseau, 2002, p. 158). In this context, there is clearly no room for justification of civil disobedience. In contrast to this view, democracies are based on Locke's explanation of social contract. Just because, authority is based on consent of the individuals, individuals also can show that they do not have consent to specific laws or policies by undertaking civil disobedience. I argue that individual autonomy has intrinsic value, while laws and policies have only instrumental value.

They may object and argue that goodness produced by obedience to sovereign or general will is greater than, goodness produced by disobedience. Then i reply there are various intrinsic values, such as individual autonomy, so human dignity, which can't be sacrificed for the sake of Leviathan or general will. Laws and institutions may be efficient and well-arranged to have strong system of government, but it does not mean anything if there are no individuals rights, individuals' freedoms and freedom of speech. States, governments, laws and policies have instrumental value to protect and promote individuals which have intrinsic value.

Moreover, McPherson argues that: "we simply misunderstand what it means to be a member of a political society if we think that political obligation needs any further justification" (McPherson, 1967, p. 64). In other words, being member of a political society also means that one has some obligations too. Leslie Green describes "associative political obligations as parthenogenetic, it does not need no further moral principles such as consent, utility, fairness, and so on" (Green, 2003). On the other hand, Michael Hardimon argues that: "noncontractual role obligations that is, obligations that simply flow from roles into which we are born" (Hardimon, 1994, p. 347). I want to underline another point, even we have political obligation just because we live in that society, we have also had roles which we are born. As a rational being we are destined to be moral or immoral persons, amorality is not an option for us, civil disobedience examples remind us this point. It is something unique to our kind, we cannot escape from our responsibilities, no matter we aware of them or not. What distinguishes human being from animals is the ability to act according to moral reasoning and principles. Just because politics is all about autonomy – authority contradiction, we need civil disobedience concept, so we should not marginalize it.

Civil disobedience is what politics is all about, disagreements. In this context, we have moral obligations as a human being which have overriding value compare to our political obligations. Consider the case, even we consent to live at the country and have political obligations to obey laws does not mean that if government declare an unjust war or enacted racist laws or policies against refugees, we still must obey the laws. Just because our moral obligations as a human being have overriding value against our political obligations, we are justified to disobey specific law not only for the sake of our moral values or principles but also for the sake of our society and state.

Thirdly, there is a utilitarian argumentation: by breaking the law always greater wrong is done, it is greater evil argument. They argue that remedy would be worse off than the evil. More precisely, unjust law is better than lawlessness at all. For example, Socrates argues that society will worse-off if individuals start to disobey the laws (Plato, 1954, 50b). In contrast to this view, i argue that there is nothing valuable neither in obedience nor in disobedience to law per se. As we analyzed at fourth section, Arendt (1972), Markowitz (2005) and Morreall (1991) consider civil disobedience as a moral value, by analyzing the concept from utilitarian point of view. Arendt and Markowitz justify civil disobedience, because they use it as an instrument to overcome our democracies inevitable deficits, and republic' crises. Also, Morreall underlines the probability of unconstitutionality of the laws.

They say society benefit from the goodness produced by obedience, i say it also suffer from it, in various context. One may object and argue that goodness produced by obedience is greater than, goodness produced by disobedience. Then i reply there are various intrinsic values, such as individual autonomy, so human dignity, which can't be sacrificed for the sake of general will. Laws and policies may be efficient and well-arranged, but that does not mean they may immoral or unjust. If they are unjust or unconstitutional, so they must be reform or abolished. Also, society would not collapse if it tolerates some disobedience. Actually, society would benefit from civil disobedience cases, if it tolerates and be flexible about its demands. Most importantly, greater evil is blind obedience to laws, as we have seen at authoritarian governments.

While thinkers underline the goodness produced by obedience, they take for granted that obedience always produce goodness. In contrast to them, i contend that individuals serve the devil unintentionally, in various context. If we lost our sense of autonomy

and obey authorities and laws silently without critical thinking, then we find ourselves in the hands of authoritarian regimes. What morality required at Nazi Regime was disobedience to laws. One was terrifyingly normal, one only obeyed the laws, policies and orders of the regime. But most evil is done by individuals who never able to think about to be good or evil (Arendt, 1963, p. 276). So, civil disobedience reminds us that, banality of evil is terrifyingly normal if we think that the law that exist is just law, and obey all laws and policies, uncritically (Balibar, 2013, p. 179). In other words, there were millions who serve devil unintentionally just because they obey the laws uncritically. Unlike who serve devil unintentionally Thoreau, King undertook civil disobedience against unjust laws. They felt responsible for injustice and accept the possible punishment as a consequence of their disobedience to laws. As Peter Singer puts it: “We found that we must concede that those who hold unconventional ethical beliefs are still living according to ethical standards if they believe, for some reasons, that it is right to do as they are doing” (Singer, 1980, p. 9). Those who undertake civil disobedience obey various other moral values, principles and ethical standards. In other words, they believe that it is immoral to obey specific laws. Paper examines different moral values and principles to justify or refuse concept of civil disobedience, but most importantly we have to be aware of the fact that, we are moral being, no matter we are aware of our responsibilities or not. There is nothing valuable at obedience to law, consider the case: there is an interview of highly famous lawyer Otto Kranzbühler, he had discussed: “if you were ignorant of what went on, you were a fool; if you knew, but looked the other way, you were a coward; if you knew, and took part, you were a criminal” (Buruma, 2017). The answer of the respected lawyer explains a lot about nature of civil disobedience. One may tell lies to himself at those kinds of regimes, but that does not make yourself fool, amorality is not option for reasonable adult. If one looked the other way, even you are aware of the injustice, you were coward. In other words, you just refuse your personal responsibility. On the other hand, Thoreau construct his all thesis and argumentation on the same ground, he just refuses to look other way around, because he knows that it would mean that supporting the wrong which he condemned. In this context, not only direct civil disobedience, but also indirect civil disobedience should be justified. Briefly, according to answer of lawyer of Nuremberg, Kranzbühler, one who undertook civil disobedience in some context, is someone who refuse to be a fool, coward or criminal. They became criminal

just because they disobey unjust laws. But, being criminal according to unjust law does not prevent one from undertaking civil disobedience.

They construct their argumentation on utilitarian principles, just because this argumentation is depending on the overall goodness produced, i say it also can be used to justify civil disobedience. Because in this context, obedience has only an instrumental value, nothing more. As Simons himself puts it: “there is nothing valuable per se in obeying the law apart from the outcome it produces” (Simmons, 1979, p. 48). As Simmons underlines, this view not only show that we ought to obey, but also that we ought to disobey.

Fourthly, there is fair play argument: Socrates argues that disobedience would be morally wrong, because it would be mistreatment of his fellow citizens (Plato, 1954, 50a). Also, just because if one benefit from the goodness produced by obedience of members of the political society, but refuse to obey law, then he acts unfairly to the members of the society (Hare, 1976).

They say fair citizens must obey the laws, i say fair citizens in some context should disobey the laws. One might object that and underlines the free-rider problem, i reply that those who undertake civil disobedience are not free-riders, in contrast they are the best citizens of their societies, just because they openly, non-violently and consciously disobey the law to persuade others on injustice or unconstitutionality of law. In other words, civil disobedience offers not selfish demands, but self-interested, universalizable demands. Also, one may criticize direct civil disobedience by fair-play argument, but those who undertake indirect civil disobedience underlines the personal responsibility of justice and disobey the law even they are not directly suffer from injustice. Those who are not direct agent or victim of unjust or unconstitutional laws may undertake civil disobedience, as Thoreau did, and they represent moral justification of civil disobedience and prove that it is not free riding.

Moreover, civil disobedience should be open and noticeable because, it is not personal exemption, free riding. Living in a society means that you have not only rights but also duties. Because people in a society give promise to each other, not to cause any harm to each other intentionally. They try to justify their action and try to persuade others for further deliberation. So, civil disobedience is fair by definition, because it is not conformism or free riding, but a demand a change at the specific laws or policies to

make them better. On the other hand, Simmons argues that: “a theorist who holds that the acceptance of benefits from a cooperative scheme is the only ground of political obligation, will be forced to admit that in at least a large number of nations, no citizens have political obligations” (Simmons, 1979, pp. 136-37).

Fifthly, there is also gratitude arguments: it means that just because citizen benefits from the state, one also has an obligation towards it (Steinberg, 2004). While fair play arguments underline the relationship between individuals, citizens; gratitude argument underlines the relationship between state and individuals, citizens. Argument takes the following form: gratitude means that if person benefit from X, then person should not act contrary to X’s interest. More precisely, just because, every citizen clearly benefits from the state, they should not act contrary to state’s interest. As Walker himself puts it: “every citizen has an obligation of gratitude to comply with the law” (Walker, 1988, p. 205). In contrast to gratitude argument, i contend that civil disobedience also does not aim to act contrary to state interest. What state is and what are its interests are contestable, but clear point is that, civil disobedience does not aim to overthrow the state. It aims reform or change at some policies and laws, just because it is immoral or unconstitutional. These demands may will be refused, but from utilitarian point of view, citizens’ questioning the laws or policies is the chief vehicle for its control. In this context, i argue that governments and society should be flexible and tolerable towards civil disobedience’s demands to benefit from it.

Paper argues that citizen only have duties to other citizens, just because they produce common goods by obedience to laws. Laws gets their moral value from protection and promotion of individuals autonomy. So, laws have only instrumental value, while individuals have intrinsic value. Civil disobedience represents an intention to persuade others that law or policy might be unjust or unconstitutional and need further deliberation.

In contrast to thinkers who refuse civil disobedience concept and do not justify civil disobedience neither morally nor legally, i contend that they are false, we need civil disobedience concept, because in various context disobedience to law is moral and obedience is immoral.

To conclude, law that exist is not a just law, it can be immoral or unconstitutional. Secondly, civil disobedience should be justifiable not only morally but also politically

at democracies, because there are inevitable democratic deficits at democracies. If we accept civil disobedience as a political participation, then we can use it to enrich our democracies. Thirdly, not only disobedience, but also obedience need justification. Civil disobedience would not cause anarchy, or greater evil because there are pre-conditions to justify it. While thinkers underline the goodness produced by obedience, they take for granted that obedience always produce goodness. In contrast to them, i contend that individuals serve the devil unintentionally, in various context. Fourthly, civil disobedience is not against fair-play argument because it has respect to other individuals, at the first place. Civil disobedience is not free riding, if it is, then it would be hidden, but it is open refusal. Also, it is non-violent, so not try to coerce others but persuade them. Lastly, gratitude argument is meaningless, because individuals do not owe anything to state itself, but only other citizens. On the other hand, civil disobedience has fidelity to law, so it can be used to enrich democracies.

6.2 Political Justification of Civil Disobedience

I offered my moral justifications; it is immoral to obey laws in various context. On the other hand, i want to underline another point apart from the moral justifications, it has various influences on every dimension of politics. So, it also has political justification. We need a concept of civil disobedience; we should not reject civil disobedience concept or marginalize it. We can understand a lot about the society by analyzing its treatment against opponents. Civil disobedience represents the belief that “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33). More precisely, i argue that there are inevitable consequences of civil disobedience as an implication. Governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. Using violence against opponents and punishing only cause further democratic deficit and legitimacy problems. Politically it is test for our democracies, it can be useful to enrich our democracies, protect from tyranny of majority and protect liberal democracies from becoming authoritarian regimes.

On the other hand, i argue democracy is valuable just because it protects and advance autonomy of its subjects. Liberal democracies can use civil disobedience examples as

a change to protect and promote autonomy of its subjects, enrich liberties and increase political participations; while others can't. Civil disobedience represents that law get its power from its connection to human well-being, protection and promotion of individual autonomies.

Main feature of civil disobedience is its communicative nature. It aims to draw public attention, mold public opinion and mobilize people and persuade the community that specific law or policy deserves reconsideration. But some questions come to mind at this point: Does it end after breach of law or with the arrest? Or does it continue after arrest until appearing at trial? Paper defend that one of the main features of civil disobedience is willingness to accept punishment and considering appearing at trial as a chance to be heard. It is most likely to appearing at trial but defending himself against charges should not be considered as mere side effect of undertaking civil disobedience, but as a chance persuade others. It is inherent part of civil disobedience' communication aim. Just because civil disobedience aim persuasion, rather than coercion, dissenters should defend their arguments even at trial and persuade community on that civil disobedience is not an ordinary breach of law. It may morally justify but for its political justification we need civil courage.

6.2.1 Common good

If one does not agree with law, then one must decide what to do. To illustrate the topic briefly, there are several possibilities:

- Quiet disapproval. Nothing illegal is done, but that does not mean one approve the law.
- One may use violence as a means to change the law or policies to coerce people, rather than persuade them.
- One may does not believe change or reform at the specific law and want to overthrow the state for a justice.
- One may break the law, but also tries to keep it hidden to escape from punishment.
- Refusing the obey the law and try to persuade people that specific law is unjust. One can say law is unjust or unconstitutional and persuade other for further deliberation.

I argue that civil disobedience is the best option among these possibilities not only for societies but also governments. Because, it is sincerely, openly show that he is not willing to obey the law or policy, just because it is unjust or unconstitutional. Quiet disapproval or hidden breach of law may seem cause less trouble for government and society, but actually they cause more legitimacy problem and do not create chance to overcome democratic deficit and enrich democracy. For example, hidden religious practices can't qualify as civil disobedience, because it does not aim to persuade community for further deliberation on ban, but if it is open disobedience then it aims to persuade community and enrich democracy. Also, there is threat to democracies to become authoritarian regimes, which laws and authority have priority over individual's autonomy and well-being.

As i suggested earlier, we need civil disobedience concept and should not marginalize it. Because, it is still relevant to problems of current politics. Same moral values and principles can be used to justified, against different unjust laws, and policies. Thinkers who refuse civil disobedience concept, accept Thoreau and King examples as a civil disobedience, and justify them according to their contexts. But just because there is no perfect system of government civil disobedience can be justified at every regime and time. From virtue ethic point of view, knife example can be considered, neither obedience nor disobedience is good per se. We need moral values and principles to justify them at various context. Crucial point is to find right mean between two extremes. It is neither quiet disapproval nor violent revolutionary act, it is sincere demand for a further deliberation. For example, if one disapproves the law, but also may keep his disapproval quiet (because of fear of punishment or public criticism), no law has been disobeyed, nothing illegal has been done. On the other hand, sometimes one disobeys the law just because of his disapproval, but also keep its hidden (ex: secret religion practices). But quite disapproval or quiet disobedience cannot qualify as civil disobedience. To qualify as civil disobedience, at least, there must be some features. Civil disobedience is breach of law, it is open, conscious, non-violent, done to make a change in the law or policies of the government according to not selfish demands but self-interested universalizable principles.

In this context, civil disobedience can be used to overcome injustice or unconstitutionality of law. It is a demand for further deliberation on policies or laws. In this context, civil disobedience serves the common good by not only underlying

personal responsibility for injustice but also overcome democratic deficits by participating politics. Thanks to civil courage our democracies have a chance to enrich itself. Paper analyze moral justifications as a moral principle, as a moral value and as a practice of virtue, even individualistic disobediences which underlines the personal responsibility for injustice serve the common good by protecting and promoting autonomy of subjects.

6.2.2 Pre-conditions

Thinkers mainly underline the degree of justice of the country to justify civil disobedience. Storing (1991) argues that King would respond differently if he undertakes civil disobedience at SSCB or Nazi Germany. Also, Raz makes a distinction between liberal and illiberal states and claims that: “there is right to civil disobedience in illiberal states, but there is no such a right at liberal states” (Raz, 1979, p. 262). On the other hand, Rawls refer justice as fairness and if there is no equal citizenship then there is no obligation to obey laws, so civil disobedience is justified (Rawls, 1971, p. 3). In other words, there is direct proportion between, degree of justice and their justifiability of civil disobedience. In contrast to these views, i argue that just because, there will never be free, perfect and enlightened state or society, one may undertake civil disobedience at every regime, every time according to its perspective of the concept. In this context, civil disobedience is justified even at liberal democracies or reasonably just societies. Therefore, as i have kept underlining there is nothing valuable neither obedience, nor disobedience per se. There is also nothing wrong about them per se. So, even at democracies, which is considered as just, ideal or free civil disobedience can be justified and tolerable. Actually, i claim that liberal democracies tend to tolerate civil disobedience more than illiberal ones, because it respects autonomy of its citizens and there is a belief that rather than coercion “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33).

Civil disobedience can be undertaken against religious education as a compulsory subject, to refuse ban of abortion, to protect environmental rights, against declaration of unjust war or against new text laws etc. Also, debated nature of civil disobedience concept come from this point. Because of that, civil disobedience descriptive and normative dimensions should be flexible for challenges and changes. Because, we are destined to see no more than, we have been conditioned to see. Every thinker tries to

make a room for civil disobedience according to their times of need. Thoreau dealt with slavery, King deal with segregation laws, Arendt, Dworkin, Rawls, Raz saw the achievements of civil right movement, Vietnam War Protest and draft resisters. Contemporary thinkers deal with Occupy Movements, Arab Spring, Gezi Park Protest, Yellow Vest Movement, Extinction Rebellion or various ecology and animal right activists. All these justifications were offered in different contexts. Today, there are also numerous wars going on all around the world. Again, not only journalist but also politicians and state officials are prisoners just because they underline the personal responsibility of unjust war. They claim that there are not only unjust laws and policies, but also unconstitutional laws and policies. In this context, we can see how Thoreau's, King's and Dworkin's arguments is relevant to current politics.

More precisely, civil disobedience can be undertaken as a moral principle to underlines personal responsibility against injustice, if dissenters argue that there is unjust law or policy. Also, it can be undertaken as a moral value, to participate politics and mobilize people, if dissenters claim that there is democratic deficit and it can't be overcome only by politicians. Lastly, it can be undertaken as a practice of virtue, if dissenters argue that good citizens not only obey the law, but also sometimes they have to disobey, because it is what good citizens do.

On the other hand, main problem about the concept is to differ civil disobedience from ordinary law breaking or revolutionary actions. I analyzed the descriptive dimension of the concept and offer five main axis's and eleven constituents to differ it from ordinary breach of law or revolutionary actions. These constituents can also be considered as answers the potential counterexamples and objections. Because, they are pre-conditions to justify civil disobedience. All of the constituents are reasonable, but i argue that five of them are the necessary constituents for breach of law being civil disobedience, these are:

- (1) Openness
- (2) Non-violence, not using violence as a means.
- (3) conscientiously offering moral values and principles which are not selfish demands, but universalizable principles.

(4) aim to change or reform at the specific law or policies, rather than overthrow of the state

(5) breach of law

First of all, i argue that not only collective civil disobedience, but also individualistic is justified. To illustrate the point more precisely, there is an important point to underline, which we can see the clear distinction between utilitarian and duty account of civil disobedience. While Thoreau consider civil disobedience as a duty, Arendt consider the moral value of disobedience by focusing its consequences. More precisely, some differ civil disobedience from conscientious objection. They argue that there are two different purposes in the first place. Arendt consider Thoreau's case not as a civil disobedience, but conscious objection (Arendt, 1972, p. 96). While, Arendt looks from utilitarian point of view, and underlines the instrumental value of civil disobedience to overcome democratic deficit, Thoreau looks from duty ethics point of view, and consider civil disobedience as a moral principle, apart from its consequences. As we saw from these two examples, civil disobedience neither have to be collective nor individualistic, both kinds are possible and justified.

Secondly, civil disobedience must be non-violent just because it aims communication. It aims to persuade others on further deliberation of specific unjust or unconstitutional laws or policies. Main argument is that civil disobedience aims change or reform at the specific law according to various moral values. So, it is an appeal to conscience of the people of that country, it is kind of communication. But, if individuals who undertake civil disobedience use violence, then it would not be communicative, it become a threat. So, if violence is used, then it is revolutionary movement, and cannot be considered as civil disobedience. In this context, there is difference between persuasion and coercion, using violence would mean that one tries to coerce others. On the other hand, civil disobedience aims to persuade others on injustice or unconstitutionality of policies or laws, non-violently. One of the main purposes of the civil disobedience is to underline instrumental value of laws, and intrinsic value of individuals. In this context, just because individuals have intrinsic value, they can't be coerced to forced decision by use of violence. Civil disobedience must be aim persuasion, and non-violent appeals to conscious of others.

Thirdly, civil disobedience can be justified as a moral principle, moral value and practice of virtue. Justification of civil disobedience as a moral principle means that it is right act, so permissible. In various context, morality requires you to disobey the law. Living in a society means that we have not only rights, but also duties. So, there is personal responsibility against injustice, which is also the justification of disobedience to law. Secondly, civil disobedience can be considered as a moral value according to utilitarian point of view. In the consequences of civil disobedience is on balance positive, then the civil disobedience is right. In other words, civil disobedience can be undertaken for the sake of common interest. For example, government may enact unconstitutional law or policy, but legal channels are not adequate to correct it. So, in various context, civil initiative is needed to check and balance government, actually it is the main vehicle. Thirdly, civil disobedience can be considered as a practice of virtue. Virtuous citizen respects the other citizens autonomy. In this context, civil disobedience may appear as a virtuous act, and does not depend on degree of justice of the regime.

Paper also, argues that all of the considerations are reasonable and can be used to justify civil disobedience. For example, even Thoreau undertaken civil disobedience as a moral moral principle and as a duty, his action became a symbol for an equal citizenship and right to vote, which are deficits of American democracy. In the long run, actually society benefit from it, to overcome democratic deficits. Legal recognition of civil disobedience would be best remedy, but it is nearly impossible for all countries. But civil disobedience always underlines personal responsibility for injustice. So, even there is no legal recognition of it, people may aware of the fact that it is not ordinary breach of law.

Fourthly, another controversial point about the concept is: does civil disobedience questions laws according to their morality or according to their constitutionality? If one considers civil disobedience as a moral principle, then it questioned the morality of the laws. On the other hand, if one considers civil disobedience as a moral value, and underlines the its instrumental value for questioning, one may undertake civil disobedience to questions constitutionality of law. In that case, civil disobedience gets its moral right through testing legality of the law, if it is constitutional or not, rather than criticize law according to different ethical standards (Dworkin, 1977, p. 208). Paper argues that both cases is acceptable, and reasonable to justify civil disobedience.

One may consider law unjust, and offer new definition of justice, which can be universalizable. Or, one may argue that law is unconstitutional, and advocate different interpretation of the law and can appeal the court. Because, Supreme Court, likely to overrule its past decisions as we saw at the history.

Lastly, what kind of legal response to civil disobedience is appropriate? Law is broken but, individuals show their fidelity to law by the accepting the legal punishment. In other words, civil disobedient show that he is ready to pay the price to convince others on certain principles. Paper argues that legal recognition would be best remedy for civil disobedience. But, to be realistic it would be nearly impossible for all states. So, we must focus on difference between punishment and penalty. Civil disobedience is not something that should be punished, but it is praiseworthy. So, just because civil disobedience is a breach of law, there can be nominal symbolic penalty, rather than punishment for those who undertakes civil disobedience. Because, using violence and punishing who critical about the laws or policies would only cause further democratic deficit and legitimacy problems.

On the other hand, another potential objection is direct civil disobedience may be justified, but indirect civil disobedience is not. In other words, it is justified only if one is direct agent or the victim of the unconstitutionality or injustice of the law. But, I argue that one can undertake civil disobedience as a moral principle, moral value or practice of virtue. In all of the cases, civil disobedience represents various moral values and principles which is not selfish demands, but universalizable principles. Not only direct civil disobedience, but also indirect civil disobedience is justified, just because there is personal responsibility against injustice. Thoreau's and King's moral values and principles can be used against unjust war at Syria and our government's laws and policies against refugees.

6.2.3 Political justification

Heywood define politics as "the activity through which people make, preserve and amend the general rules under which they live" (Heywood, 207, p. 21). The word politics is originally come from polis, which means city-state at Ancient Greece. In this context, it means that what concern the polis. So, civil disobedience represents individuals, who want to enter politics, about what concern them, society and government. So, civil disobedience represent dialogue, rather than monologue.

Moreover, civil disobedience represents that conflict at politics inevitable and perfect society is impossible and just an illusion.

Civil disobedience does not aim to overthrow state or create another type of state by revolution (such as communism), it has a specific open aim, for a change or reform at the specific policy or law. The kind of disobedience I analyze and justify in this thesis is not one that aim to overthrow the state or regime, but one that aims to make a change or reform at specific law according to various moral values and principles. On the other hand, there are thinkers and groups which claims that violent methods of resistance are most coercive, or more likely to produce desired changes. While civil disobedience does not reject the legitimacy of the regime, militants or radical protesters do not accept the legitimacy of the regime and want to overthrow it. Also, while civil disobedience believes in limited objectives and changes, revolutionary action does not believe in their effectiveness. As paper referred at the first two chapters, while King have limited objective, Elijah Muhammed reject the legitimacy of the state, and use violence as a means and demand to establish a state (Elijah, Muhammed, 1966). He claims that just because their parents were slaved, former slave masters have a duty to provide a land to them, to establish this state. From this example, we can see the difference between civil disobedience and revolutionary movements.

I want to underline another point, even we have political obligation just because we live in that society, we have also had roles which we are born. As a rational being we are destined to be moral or immoral persons, amorality is not an option for us, civil disobedience examples remind us this point. It is something unique to our kind, we cannot escape from our responsibilities, no matter we aware of them or not. What distinguishes human being from animals is the ability to act according to moral reasoning and principles. That is also what makes doing politics possible. Dissenters undertake civil disobedience, just to communicate with community and persuade them for further deliberation. So, civil disobedience is what politics is all about, disagreements, having different views about what concern us. In other words, conflict is one of the main constituents of politics.

I claim that individuals can achieve true autonomy only by living in a society. We can't talk about civil disobedience for Robinson Crusoe, he can also cannot reach full autonomy. There is inevitable and constant struggle between autonomy and authority

does not mean that, there should not be no authority. We need system of governments and laws for the sake of individual autonomies. On the other hand, it does not mean that laws and policies can't be refused. Individuals do not owe anything to state or laws itself, so gratitude arguments are meaningless. But individuals should have respect to laws, just because they should respect to autonomies of other individuals. In this context, one can show respect to law not only by obeying but also by disobeying it openly. In other words, one who undertake civil disobedience has fidelity to law. Otherwise, one would choose to disobey the laws secretly, and would not try to persuade others, in the first place. In this context, just because it is open breach of law and offering moral values and principles for a change, it is politics itself. It is breach of law, but also political act.

At the center of my argument for the justification of civil disobedience within a democratic state, civil disobedience is sometimes not only permissible but also praise-worthy. Civil disobedience is praise-worthy because, good citizens sometimes disobeys the laws. Good citizen is who respect another citizens' autonomy. Autonomy is the condition of choosing her conception of good life. Also, democracy has an instrumental value, because it protects and promote autonomy of its subjects. In this context, paper argues that there is nothing valuable neither in obedience nor in disobedience to political authority per se. Laws have only instrumental value, while individuals and their autonomies have intrinsic value at democracy. This is also differing democracy from other kinds of system of governments. In other words, there are certain kinds of procedures which is used to get legitimacy from people who have different points of views at political issues. At other kind of systems of governments laws, state and political authority may intrinsic value, while individuals have instrumental value, but at democracy it is vice versa.

On the other hand, saying democracy is best system of government compare to others, does not mean that there a perfect democracy. As we have seen thorough history even the most advanced democracies, sometimes suffer from accountability, unjust or unconstitutional laws and policies, civil liberties violations, corruption etc. Consider the cases, Socrates lived at the city of Athena, where democracy is born and Thoreau and King lived at USA, which is accepted as an advanced democracy. There has never been a fully perfect and just system of government. In other words, we do not live at utopias. Our democracies are also imperfect, and they can always become more just,

freer or more democratic. Saying democracies are imperfect and inevitably suffer from democratic deficits, also accepting that they are always needed active citizenship, individuals' political participation, this is also the ground political justification of civil disobedience is based on.

We should support democratic procedures and just governments, but support does not mean obligation to obey the laws. Just because a solution is reached by democratic procedure does not make this solution just also (Raz, 1979, p. 242). Because, we need more than procedural democracy. There is division of power and check and control systems, just to limit and balance government's power. But, as anyone familiar with politics has long known that "power tends to corrupt and absolute power corrupts absolutely" as John Dalberg said. Democracy means more than just elections. If "democracy is government of the people, by the people, for the people" as Lincoln said, then it should be open to criticisms, even tolerate disobediences in various contexts. Democracy can be enriched by political participations of opponents and flexibility of government towards dissenters demands. So, people may undertake it as a moral value, moral principle or practice of virtue by openly and non-violently to show devotion to the fidelity of law. More precisely, if we claim that we are live at democracy, then each individuals' views and criticism have intrinsic value, and must be protected by laws. Also, just because democracies also have inevitable democratic deficits, political participation of individuals to politics is needed. Nobody has monopoly on doing politics, and individuals can participate the politics by undertaking civil disobedience, in certain circumstances. In this context, civil disobedience is not something that should be punished, but it is praiseworthy. Neither holy empires, nor Leviathans brings legitimacy to regimes, we need political participation and active citizenship for legitimacy at democracy. In this context, there is no law or policy which can't be disobeyed, all of them can be reformed or abolished for the sake of individuals.

Civil disobedience also protects us from arbitrary decisions. at some point, government may consider every criticism as a threat to itself, and start to consider the government, leader as a state itself as once Louis XIV said "l'etat c'est moi" (I am the state). But this mentality is no longer brings legitimacy to the governments at our century. Consider the case, tyrant rules according to as he wishes and arbitrary decisions. It is very likely to elected government or person became the only source of every decision. Laws, including those they or person gives themselves/himself, will impose certain

limitations on their/his otherwise boundless power. They may by-pass some laws or interpret them according to their selfish demands. In this context, disobedience underlines the unjust or unconstitutional interpretations of laws. So, good citizens sometimes disobey the laws, not only as a duty, practice of virtue but also as a moral value to participate politics. In this context, civil disobedience is necessary for democracies. Because, democracies have inevitable democratic deficit and tend to be authoritarian, but thanks to civil initiative and courage we can overcome these problems.

On the other hand, there is distinction between power and authority. Power is the ability to achieve a desired outcome, but authority is the legitimate power. In other words, power is ability to do something, while authority is the right to do something. Simply, those who undertake civil disobedience claim that you do not have authority to enact specific law or policy, they refuse legitimacy of specific laws or policies. Power may coerce dissenters by using violence, they lost authority over them. In this context, government should persuade dissenters rather than coerce them. On the other hand, breach of law must be open and non-violent to qualify as civil disobedience, it also should aim persuasion rather than coercion.

Legal recognition at the constitution is not a must. It is also not realistic to offer same procedural right to all countries, for example, Arendt claims that legal recognition at the constitution would be best remedy, but also it is unique for only USA (Arendt, p. 1972). On the other hand, whether it is recognized as a constitutional right or not, there should be specific pre-conditions to undertake civil disobedience. so, i claim that civil disobedience is naturally communicative action, it aims to persuade community on reconsideration of specific law and policies. So, it is breach of law in the first place. But it can't be violent, violence should not be used as a means, because it aims persuasion rather than coercion. Also, it must be open not only citizens, but also authorities must be aware of breach of law, to not contradict with fairness principle and show it is not free riding. On the other hand, Lastly, it can be individualistic or collective. Because, if it is open breach of law, it is naturally forward looking and have an expectation from others, so it does not have to be collective to mold public opinion. Accepting the punishment means that dissenter accept its responsibility for breach of law, but not liability. By appealing the trial, dissenters prove his fidelity to law, but expect political justification, not an excuse.

Political justification of civil disobedience is related to moral justification of civil disobedience. Civil disobedience as a moral principle underlines personal responsibility for injustice. As a moral value underlines the its role to overcome democratic deficit by participating politics. As a practice of virtue good citizens sometimes disobey the law. In shorth, individuals' justifications to disobedience is chief vehicle to challenging the laws and policies on moral grounds. If agent obey all the laws and policies silently, laws and policies certainly become less fair and just, liberty of citizens would be diminished, tyranny of majority arise, and just because power which is not controlled corrupt, government become more authoritarian. In other words, citizens are the chief vehicle to control government, civil courage of the citizens not only define the degree of justice at the country, but also degree of democracy.

Civil disobedience represents the belief that “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33). Thanks to civil associations people initiate, cooperate and take responsibility for change. Rather than expect everything from state or government, people mobilize thanks to civil disobedience and take responsibility to not only make changes but also prevent, control power of the state and government. This is also exactly what civil disobedience tries to do, take initiative for change, even they contradict with laws. In this context, state should tolerate civil disobedience, just because they have fidelity to law, they are not free-rider or they do not aim to overthrow state, they just demand change or reform at the specific laws according to various moral values and principles. Main criticism against civil disobedience is society cannot endure if it tolerates it, in the long run society-worse off because it causes lawlessness. In contrast to this view, i argue that it does not collapse by tolerating some civil disobedience. Actually, not only individuals but also society and democracy of that country would also flourish.

I claim that government has a responsibility to dissenters who argue that law is unjust or unconstitutional and undertake civil disobedience. Because, they way they handle the dissenters will influence not only them but also society. Civil disobedience does not need constitutional recognition, we also can tacitly justify it not only morally but also politically. More precisely, every law based on set of moral principles, values and policies. For example, laws prohibit murder or theft, because individuals are protected by law. On the other hand, some laws based on utility of social or economic policies

they promote. Dissenters demand a change or reform at the law, by killing or stealing. But, if dissenters aim second type of laws, government and community can tolerate them. Consider the case, Dworkin argues that draft resisters can be free from prosecution. Because, they argue that government's policy is unjust and even they are tolerated, volunteers could continue the process. They do not affect the policy at all (Dworkin, 1977, pp. 219). Congress can review the laws in question to see how much they can tolerate dissenters. As Dworkin argues, I also claim that if there is civil disobedience, then government has responsibility for further deliberation of law or policies. Because, punishing those who undertake civil disobedience is price to pay, and further deliberation and toleration not only flourish democracy, but also protect and promote individual's autonomy. Consider the case, "The Camdan 28", anti-war activists, in 1973, destroyed the draft registrations. Activist was facing more than forty years in jail. Before the trial they were offered a plea bargain, but they rejected the plea, and defend themselves at the trial. Eventually, they persuade the jury of their innocence, and they were the first anti-war activists to be acquitted by a jury (Zinn, 1997, p. 427). In other words, they risked and were willing to accept harsh punishment to defend their responsibility but not liability.

Civil disobedience tries to persuade others for reconsideration of certain laws or policies. To be able to do that, it should show its sincerity, best way to do this is acceptance of punishment in the first place. By accepting the punishment, the dissenters show that they do not reject the legitimacy of the state. Their dissent is forward-looking, and try to communicate with majority, and hope to persuade others. In this context, it tries to persuade, rather than coerce others by disobedience to unjust or unconstitutional law. This point differs civil disobedience from ordinary breach of law and make it political action. So, dissenters should not try to escape from the arrest, and should cooperate with police, and ready to be appear in court. I argue that civil disobedience aims to persuade community that civil disobedience is not ordinary breach of law, so dissenters do not deserve punishment. So, they should plead not guilty, if they appear at the trial. In this context, accepting the punishment means that willingness to risk being punished (Moraro, 2010, p. 135). Because, it shows civility and courage, taking responsibility to correct wrong. On the other hand, acceptance punishment does not mean that they want to be punished, it would be absurd. They only accept the possibility to be punished, just because they are aware of what they

have done is breach of law. In other words, civil disobedience aim communication by disobeying. So, it should be open, and with fair notice. Dissenters should not cover their faces, identities and escape from police. It is most likely to appearing at trial but defending himself against charges should not be considered as side effect of undertaking civil disobedience, but as a chance persuade others. It is inherent part of civil disobedience' communication aim. Just because, elected politicians can't solve the problem, or cause of the problem itself, dissenters undertake illegal means, and ready to pay the price. This attitude also can be considered as a fidelity and respect the law. Dissenter should consider appearing at court as a chance to be heard. Even one cannot persuade community, one achieves communication aim.

Article 10 of the Universal Declaration of Human Rights states that everyone "is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him". In other words, there is a human right to fair trial and constitution must guarantee that to its citizens. Related to this point, citizens can enforce against the state (Moraro, 2010, p. 166). In this context, according to procedure, citizens have a right to be heard. Appearing at court after breach of law, means that state blame dissenters on behalf of its citizens. In other words, dissenters are responsible for what they did. More precisely, appearing at the court, means that you are reasonable person and qualified to understand why you are blamed. We are reasonable person, so we are destined to be moral or immoral, amoral is not an option for us. So, being responsible means that you are qualified to answer for what you are responsible for. Also, you have a chance to offer your arguments to defend yourself. One pleads guilty or pleads not guilty, also have right to silence. But, right to silence, is not an option for civil disobedience, because civil disobedience aim communication, and persuasion of others. So, dissenters have two option: plead guilty or not guilty.

On the other hand, there is difference between responsibility and liability (Moraro, 2010). More precisely, dissenter has in fact undertake civil disobedience he is being charged with, is not sufficient to make him guilty. Trial tries to show that person committed a crime and responsible for it. But even dissenter's responsibility is proved, there is also criminal liability. In other words, responsibility is not sufficient, but only necessary for being guilty. Dissenter who is accused of breach of law may admit that he did the act, yet he can challenge the court and claiming that breach of law was in

his context is not wrong. So, he can offer a reply, argumentation to the accusation, and refuse the liability. Self-defense is the example of this distinction. Agent may be responsible for the death of the victim, but agent may act in self-defense and it makes him not liable for the criminal punishment. There is a fact, agent was criminally responsible for the death of the attacker, does not make her criminally liable for murdering the attacker (Moraro, 2010, p. 174). This argumentation also can be used for civil disobedience. Dissenters who appear in court may claim defense of necessity and claim that they undertake civil disobedience, but it is justified under specific context. So, they should not be punished, but at the same time they show their willingness to acceptance of punishment. Because, they undertake civil disobedience as a moral value, moral principle, and practice of virtue and justified it morally to themselves in the first place. Their argumentation for political justification is based on their moral justification, and even if they can't persuade community, they fulfill their moral duty. "Pit Stop Ploughshares" can be offered as an example, dissenters damaged warplane just because they were against Iraq War at 2003. After attack they remained at the area, did not resist arresting. At the trial they admit they damaged the plane, but they also offer their justification. Because, they aimed to protect lives and properties of Iraqi people. In other words, they were responsible for the breach of law, but they are not liable, just because their actions were morally justified. The Rosa Park and Friendship Nine examples are also related to the point, Rosa Park knows that if she sits at the seats for white Americans, she was going to be punished. Or another controversial example is, "Friendship Nine", nine friends arrested just because they took their seat which was not allowed to them. Important point is that, they refuse to pay \$100 to release, and accept full punishment, which is even today known as "jail, no bail". More precisely, they may plead guilty and accept not only responsibility but also liability, it would be in their interest for lesser offence and lower sentence. But they show civil courage and acted according to their moral justification for political justification. They accept that they are responsible for breach of law, but they are not liable, they are justified to do that, so they aim to persuade community. In fact, Supreme Court overruled the past decisions, and they achieved their demands. As a consequence, their disobedience had an influence on every dimension of politics.

Dissenters accept the state's right to punish them for breach of law, it also means that dissenters accept the state's legitimate authority. This distinguishes civil disobedience

from revolution. On the other hand, at civil disobedience, dissenters not only accept that they are responsible for breach of law, but also not liable for various moral reasons in various circumstances. But it is common for all civil disobedience cases, conscientiousness means that it is not selfish breach of law, but dissenters disobey for the common good. In this context, hidden disobedience, or resistance to arresting would weaken the meaning of civil disobedience. In other words, at civil disobedience, dissenter's willingness to face the consequences of his actions, accepting the responsibility but not liability is main character of civil disobedience, and main argument for political justification. Because, Supreme Court, likely to overrule its past decisions as we saw at the history.

Moreover, accepting punishment also means that they are willing to go to court, to be heard, and persuade others. One may disobey to the law, to get job done. Consider the case, as we saw at the various examples, dissenters cover their faces, and resist to polices. In other words, they disobey the law, for their justified claims, but do not willing to accept the punishment. Milligan argues that there is distinction between refusing to accept and refusing to speed up the process or to make simple for the authorities (Milligan, 2013, p. 22). Consider the case, King and his friends use accepting the legal consequences as a tactic to raise awareness on unjust segregation laws. They act openly, speed up the process and make simple for the authorities. On the other hand, Animal Liberation Front or some protesters at Occupy Movement or Gezi Park Protest hidden their faces and make the situation harder for the authorities. So, there is a distinction, we can say that Civil Right Movement is a kind of self-sacrifice, on the other hand, even some protesters have fidelity to law can refuse to speed up the penalty process and make it simple for the authorities. I argue that if there is no legal recognition of civil disobedience, then one must will to accept the penalty, even law is unjust or unconstitutional just to show their good intentions and sincerity. Also, i also argue that accepting punishment can be considered as their sincereness and aim to communicate. If they would disobey the law secretly or resist to police, it would not mean they want to persuade others.

6.2.4 Implications

Civil disobedience has various influences at every dimension of politics and societies. Underlining not only its justifications but also its influences and outcomes are important to show that civil disobedience is relevant to current politics. One may say

that Thoreau's or King's argumentations and justifications are reasonable but irrelevant to problems of current politics, then i reply civil disobedience is one of the most controversial issue of current politics.

There have been examples of dissents at the last decade, such as; Occupy Movement, Arab Spring protests, Gezi Park protest, Yellow Vests Movement, Extinction Rebellion and numerous others, which have great influence on every dimension of politics. So, there have been various discussions about their definitions related to their justifications. We may disagree about their definition, people define these examples variously, from terrorism to activism. Civil disobedience represents the belief that "we are capable of establishing good government from reflection and choice" (Hamilton, 1961, p.33). In this context, state should tolerate civil disobedience, just because they have fidelity to law, they are not free-rider or they do not aim to overthrow state, they just demand change or reform at the specific laws according to various moral values and principles. As we have seen Socrates, Thoreau, King all were considered as extremist once, just because they disobey the unjust laws. Today, politicians may tend to consider dissenters, who undertake civil disobedience as marginals or terrorists according to their point of views. But neither elected politicians, nor state's officials have no right to declare anybody marginal. As Tanıl Bora emphasizes: "Nobody is a marginal at the true democracy or republic" (Bora, 2013). So, as a member of democratic regimes we have to be aware that each individual has an intrinsic value, and laws has only instrumental value.

If government and society reject civil disobedience concept and dissenters' demands, it would mean that maintaining statu qua and punishing who undertake civil disobedience. Government and majority of the society may consider civil disobedience as a threat to their authority, even as an insult to their values. Government may use media and other tools of its power to mobilize its supporters to marginalize and punish those who do not obey laws or policies. It would mean that legitimization of using violence against opponents. Surveillance, subjection and use of penal system to maximize its power not only unjust ethically, but also it causes further legitimacy problems. It also, has a deterrent role against flourishing of democracy. Without civil initiative, control, criticism of laws, policies we are destined to despots. Each criticism, disobedience towards laws, and policies may be considered as threat the state itself by government. Government can use this discourse, rhetoric as a permanent policy and

try to mobilize people against all criticism towards its government. At one point, all laws, regulations and policies may lose its meaning, and one leader or party can rule the country according to his will. Ironically, one of the most controversial, disputed feature of civil disobedience fidelity to law, at one point, does not mean anything for government itself.

More precisely, government and society may reject their responsibility and demands of the dissenter to maintain statu quo, but it would have consequences. It is easy to reject demands of other dissenters, but we cannot dodge the consequences of dodging their demands. There is a fact about civil disobedience examples, governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. So, if we believe that, “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33) rather than violent ways, we should not reject civil disobedience concept and marginalize it. Either we accept the concept and dealt with dissenters democratically, or we reject their demands and consider them terrorist and marginals and punish them which would cause more democratic deficit and legitimacy problems.

On the other hand, no country wants to use violence, it is by nature instrumental (Arendt, 1969, 51). Government may choose to punish opponents and use violence against them to maintain statu qua. From now on, even government became prisoners of these laws and policies, because they chose to be more rigid, instead of flexible. One may think that government successfully handle the problem not only by using it for mobilization of its supporters to get more vote, but also using state power to maximize its power from utilitarian point of view. But, in the long run, one way or another, even those who choose this way will aware of the fact that, violence and punishment only have instrumental value, while authority and legitimacy have intrinsic. In other words, government may choose to mobilize its supporters to punish those who disobey the laws or policies, but in the long run, political polarization would only cause more democratic deficit, and legitimacy problems. Rejecting the demands of those who undertake civil disobedience and marginalizing them may be used to mobilize people to win elections, but in the long run, there may no liberal democratic country to govern.

On the other hand, if we do not have democratic legislation and constitution then it is impossible for us to talk about justification of civil disobedience. Rule of King, dictator or religious leader cannot tolerate criticism against laws, because laws are made according to their perfect ethical standards. For example, at SSCB, Nazi Germany or today's Iran, individuals cannot act according to their autonomy. They must act according to forced decision, ideal choices which is prescribed by the political power. In other words, just because we cannot talk about autonomy, there is no political freedom. So, justification of civil disobedience is impossible at these kinds of regimes. At these kinds of regimes, one may choose to revolt and overthrow the government, rather than undertake civil disobedience for a change or reform at the laws and policies. There are already ideal, perfect laws at these regimes according to authorities which can't be criticized or changed. In this kind of regimes, everyone can be considered as marginal, terrorist and easily can be punished. At some point laws lost its meaning, because what is demanded is only blind obedience to laws and policies which is legislated by government. On the other hand, laws have an instrumental value, if individuals are aware of the moral values and principles which they are based on. So, disobedience to unjust or unconstitutional laws by offering various moral values and principles, actually underlines the importance of laws, more than uncritical obedience to them. In this context, good citizen has to be aware of the moral values and principles which laws and constitution are based on. Only obedience to laws and authorities does not make individual a good citizen.

Various thinkers criticized the concept and argues that it is not applicable at every regime. More precisely, if King live at Nazi Germany or Stalin's Russia, movement would be responded differently. On the other hand, Arendt uses the same example to justify civil disobedience. The way governments deal with the problems has a price. The way government deal with problems also shaped government, itself. As she herself puts it: "To substitute violence for power can bring victory, but the price is very high; for it is not only paid by the vanquished, it is also paid by the victor in terms of his own power" (Arendt, 1969, p. 53). So, civil disobedience is a test for societies and governments. The way society and government handle with it, has a great influence in the long-run at both sides. Government cannot handle the problem of legitimacy with violence. She uses the example of Vietnam War to illustrate the point, superiority of the means of violence does not bring the victory, we see the same example nowadays

at Iraq and Syria, violence does not bring consent and construction of authority at these regions. Civil disobedience shows that there is a legitimacy problem, and legitimacy problem cannot be solved by use of force or violence. It just makes the situation worse.

For example, i claim that Gezi Park Protest have a great influence not only at government and politics but also at society. More precisely, if we ask who participate the protest or support them, they would offer us various moral values and principles. Of course, their explanations and motives are important, which are contested, and any reasonable, genuine assumption cannot silence the disputes about the topic. On the other hand, i want to underline a point, not only who participate and support Gezi Park Protest, but also who claim that it is ordinary breach of law, participants are marginals and try to explain it with conspiracy theories would agree at this point, Gezi Park Protest has a great influence on not only at government and society but also every dimension of politics.

In other words, when it comes to topics of Gezi Park Protest, as i underline, most people will readily agree that Gezi Park Protest has influence on politics, government and society. Where this agreement usually ends, however, is on the question of its causes, definitions and justifications. Whereas some are convinced that it is just and not ordinary breach of law, others claim that it is ordinary breach of law, who undertook are marginals and must be punished. According to a survey by opinion research institute, Konda, 40 percent of those questioned saw the protests as a "democratic struggle for civil rights and freedom," while more than 50 percent saw it as a "conspiracy against Turkey." According to Konda, this view was particularly widespread among AKP voters (Hann, 2018). I claim that even they disagree about its causes; they agree on its great influence on politics. So, i claim that two sides should ask the question: what went wrong? Because, people were killed, various properties were damaged and neither government accept dissenters demands, nor government can say that they handle the protests well-meaningly. I claim that it can be managed more peacefully and democratically, so my country democracy test would not go wrong. Government claims that even protest was peacefully at the beginning, it become violent and it planned to overthrow government. On the other hand, dissenters argue that government not only refused their demands, but also, they were challenged by police who teargassed activists and set fire their tents. I contend that civil disobedience must be open, non-violent and dissenters fails on that point, and use of

extreme police force against them is not an excuse. On the other hand, government have influenced from the protest and has become more illiberal day by day. All of us would agree on that, after Gezi Park Protest society become polarized, and we do not have liberal democracy anymore. If government would have chosen flexibility, then civil disobedience achieved its demands and government do not polarize the society. So, neither state officials, nor dissenters had to use violence, in the first place.

On the other hand, when we analyze the justifications of the disobedience, we find different justifications. In the first place i want to clear a point, we all must accept that there are dissenters who tend to use violence or manipulate people at most of the examples. So, in this context extreme ideologies and violent dissenters are the biggest threat for civil disobedience. But, i want to underline another point, as i knew from Gezi Protest, and i realized the same after analyzing of various examples, dissenters have different justifications. When we analyze the justifications of civil disobedience at Gezi Park Protest: “on May 28th, 2013, a small group of environmentalists occupying Gezi Park Square were challenged by police who teargassed activists and set fire to their tents. The protests, which had been ongoing since April, had originated in opposition to plans for razing the park in order to build a shopping mall” (Hann, 2018). As we know, politics is what concern the city, so they actually doing politics nothing more. Violence of the police response mobilized people to participate civil disobedience. Also, everybody would agree that what had begun as an environmental protest, turn into anti-government protest all around the country. In other words, Gezi was the catalyst for various other moral values and principles to justify civil disobedience. According to a survey by Konda, 40 percent of those questioned saw the protests as a "democratic struggle for civil rights and freedom" (Hann, 2018).

The point i want to underline is, just because government chose to be rigid instead of flexible, they cause mobilization of further dissenters who have various other moral values and principles to justify disobedience and participate the protests. It was catalyst, just because the way government handle with the problem. I personally know that the violent police response against citizens, cause more citizens to disobey as a practice of virtue, moral principle or moral value. The dissenters who participate after violent police response claim that good citizens respect other citizens autonomy, there is democratic deficit or personal responsibility for injustice. So, there are not only

differences between different civil disobedience examples' descriptive and normative dimensions but also different justifications at the same example.

Civil disobedience concept is not only contested concept, but also continuously changing. What we and governments should do is respect individuals' autonomies and their sincere demands. It is easy to define it as an ordinary breach of law, and dissenters as marginals. Unfortunately, we have chosen this worst scenario. But, at the best scenario government would had been flexible, just because individuals have intrinsic value, and laws, policies only have instrumental value. In this context, it is not only chance to enrich our democracy and but also flourish individuals. I claim that The Gezi protests were, has a great influence at every dimension of government and society.

Overall, one may have an obligation to obey law as a citizen, but not only his obligation as a human being may take priority to disobey the laws, but also his respects to other citizens and laws may take priority to disobey the laws. On the other hand, in contrast to the law that exist is a just law argument, i contend that it is false. To illustrate the logical background:

- If one right and moral, then one obeys the law.
- One disobeys the law.
- Then he is wrong and immoral.

In contrast to this view i claim that law is not the source of morality. Just the opposite, laws are created according to various moral values and principles. For example, one who disobeys the law under Nazi Regime can be right and just. In other words, one who disobey the law can be morally right and just. One undertakes civil disobedience not because, he tries to persuade other on specific moral values, and principles. So, civil disobedience represents neither amorality nor immorality but morality, whether it is persuasive or not is separate question. Paper aims to illustrate the controversies and justifications from different dimensions. Paper has analyzed the justifications of civil disobedience into three categories as moral principle, as a moral value or as a practice of virtue. I found all of them reasonable and valid. All of these justifications look from individuals' point of view. But, apart from their point of view, once civil disobedience is undertaken, it has inevitable consequences not only for the who undertake it, but also for society and every dimension of politics. In the worst scenario, one who undertake civil disobedience is at ease. Consider the case, Thoreau and King

consider civil disobedience as a moral principle, they are considered it as a duty apart from its consequences. But, both of their disobedience had influenced politics. This is also same for civil disobedience as a practice of virtue. Civil disobedience is a demand and political action by its definition and nature.

6.3 Conclusion

Chapter had analyzed the concept from three perspective, it is considered as moral principle, moral value or practice of virtue. These perspectives argue that in some circumstances it would be immoral to obey the laws, morality requires disobedience in various contexts. On the other hand, it is also politically justified, because it has an instrumental value to check and balance the government. It can be used to protect and promote autonomy of citizens and protect citizens from tyranny of majority. Democracies are imperfect and tend to be authoritarian and illiberal, so civil disobedience maintains democracy liberal.

Because of these justifications, we need civil disobedience concept, so we should not marginalize it. On the other hand, if we refuse civil disobedience concept and marginalize them, then it would mean that civil disobedience is an ordinary breach of law, so it must be punished. But punishment only cause more legitimacy problems and democratic deficit.

Lastly, Civil disobedience represent the belief that “we are capable of establishing good government from reflection and choice” (Hamilton, 1961, p.33). Governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. Using violence against opponents and punishing them cause polarization. Rejecting the demands of those who undertake civil disobedience and marginalizing them may be used to mobilize people to win elections, but in the long run, there may no liberal democratic country to govern. It also has a great influence on politics and transformative role for society and government, as we have seen at civil disobedience examples of the last decade.

Overall, civil disobedience can be undertaken as a moral principle, as a moral value and practice of virtue. On the other hand, it has instrumental, positive role to overcome democratic deficits. In this context, civil disobedience is not only tolerable, but also praise-worthy.

7. CONCLUSION AND RECOMMENDATIONS

I choose the topic of civil disobedience, because it is relevant topic in the current politics. Thinkers try to justify disobedience according to various contexts. Thoreau dealt with slavery, King deal with segregation laws, Arendt, Dworkin, Rawls, Raz saw the achievements of civil right movement, Vietnam War Protest and draft resisters. Also, there have been examples of dissents at the last decade, such as; Occupy Movement, Arab Spring protests, Gezi Park protest, Yellow vests movement, Extinction Rebellion and numerous others, which have great influence on every dimension of politics. So, contemporary thinkers deal with Occupy Movements, Arab Spring, ecology and animal right activists, so each of their argumentations contribute the conceptualization of civil disobedience from different perspectives. Because of that civil disobedience is a contested and continuously changing concept. There have been various discussions about their definitions related to their justifications. We disagree about these examples' definitions, people define these examples variously, from terrorism to activism. Civil disobedience represents the belief that "we are capable of establishing good government from reflection and choice" (Hamilton, 1961, p.33). In this context, civil disobedience can be justifiable, just because they have fidelity to law, they are not free-rider or they do not aim to overthrow state, they just demand change or reform at the specific laws according to various moral values and principles. As we have seen Socrates, Thoreau, King all were considered as extremist once, just because they disobey the unjust laws. Today, politicians may tend to consider dissenters, who undertake civil disobedience as marginals or terrorists according to their point of views. But neither elected politicians, nor state's officials have no right to declare anybody marginal. So, as a member of democratic regimes we have to be aware that each individual has an intrinsic value, and laws has only instrumental value. This thesis has highlighted that disobedience to law is moral and obedience to law is immoral in various contexts. Through chapters, i have referred to moral individuals as those who disobedience to law according to various moral values and principles.

As a result of Occupy Movement people are mobilized and get attention to democratic deficits and economic inequalities. Thanks to Gezi Park Protest, Gezi Park and trees are protected, even with high prices. Thanks to Yellow West Movement reforms are promised. There are numerous other cases and achievements, which is defined not only by dissenters' attitudes but also governments and societies. Related to this point, i claim that governments and societies can never be the same again after they face with civil disobedience. Because they have only two options; either became more flexible about the law or policy (critical thinking on it) or became more rigid by maintaining statu quo and choose to punish who undertakes civil disobedience. Using violence against dissenters and punishing them cause polarization. Rejecting the demands of those who undertake civil disobedience and marginalizing them may be used to mobilize people, to win elections, but in the long run, there may no liberal democratic country to govern.

Civil disobedience cases have great influences on every dimension of politics and transformative role for societies and governments, as we have seen at civil disobedience examples of the last decade. In other words, at the worst scenario, one may be punished, and his demands may be rejected. But he not only fulfills his duty, from duty ethics point of view, but also inevitably has an influence at politics. From now on its government and society' problem, how they handle with it. They may reject their responsibility and demands of the dissenter to maintain statu quo, but it would have consequences. It is easy to reject demands of other dissenters, but we cannot dodge the consequences of dodging their demands.

If we believe that, "we are capable of establishing good government from reflection and choice" (Hamilton, 1961, p.33), rather than violent ways and coercion. So, we should not reject civil disobedience concept and marginalize it. Either we accept the concept and dealt with dissenters peacefully, or we reject their demands and consider them terrorist and marginals and punish them which would cause more democratic deficit and legitimacy problems. Power may coerce dissenters by using violence, but would not be legitimate, so they lost authority over them. In this context, government should persuade dissenters rather than coerce them. On the other hand, breach of law must be open and non-violent to qualify as civil disobedience, it also should aim persuasion rather than coercion. Rejecting the demands of those who undertake civil disobedience and marginalizing them may be used to silence them but in the long run,

there may no liberal democratic country to govern. In this context, civil disobedience is not only tolerable, but also praise-worthy. Because, obedience to law is immoral and disobedience to law is moral, in various circumstances.

At the first chapter, i tried to show what differ civil disobedience from ordinary breach of law. Paper analyzed different definitions and conceptualization of the concept according to different perspectives. At the analyze, eleven fundamental constituents have come into prominence. These are: (1) it is last resort; (2) acted openly, not secretly (3) not-violent; (4) not for personal gain; (5) accepts punishment (6) conscientious (7) done to make a change in the law or policies of the government (8) done to check law's constitutionality (9) after self-purification (10) direct-action (11) cannot appeal to personal moral values and principles or religious doctrines. On the other hand, paper has argued that they may be necessary conditions, but they are not sufficient. Also, there can be numerous combinations of these features which are attributed to civil disobedience, according to different times, geographies and states. On the other hand, they show us why we need civil disobedience concept, rather than marginalize it. At the second section i analyzed these features more precisely and critically. So, i reached a conclusion, civil disobedience is continuously changing and contested concept. What differ civil disobedience from ordinary law breaking is its fidelity to law, it is not freeriding but demand for a change or reform at specific laws. For example, if one disapproves the law, but also may keep his disapproval quiet (because of fear of punishment or public criticism), no law has been disobeyed, nothing illegal has been done. On the other hand, sometimes one disobeys the law just because of his disapproval, but also keep its hidden (ex: secret religion practices). But quite disapproval or quiet disobedience cannot qualify as civil disobedience. Civil disobedience is breach of law, it is open, conscious, non-violent, done with the aim of bringing about a change in the law or policies of the government according to not selfish demands but universalizable principles.

At the second chapter, i analyzed the different explanations of fundamental constituents. There are disagreements not only about constituents of civil disobedience, but also the actual meanings of these constituents. Because, even thinkers agree on "y" is constituent of civil disobedience, their explanations of this "y" constituent are different. So, at this chapter paper makes explicit thinkers' explanation of these fundamental constituent.

At the third chapter i referred five main criticisms against civil disobedience concept. I criticized the views which refuse civil disobedience concept and consider it immoral. Firstly, in contrast to view that law that exist is a just law, i contended that law that exist can be unjust or unconstitutional. So, every law can be reformed or abolished at democracies. Civil disobedience is a demand further deliberation on specific laws. Secondly, paper analyzed the social contract theories. If we believe that we live at democracies, then we must aware of the fact that laws have only instrumental value, while individuals have intrinsic. Neither holy empires, nor Leviathans brings legitimacy to regimes, we need political participation and active citizenship for legitimacy at democracy. They may object and argue that goodness produced by obedience to sovereign or general will is greater than, goodness produced by disobedience. Then i reply there are various intrinsic values, such as individual autonomy, so human dignity, which can't be sacrificed for the sake of Leviathan or general will. Laws and policies may be efficient and well-arranged to have strong system of government, but it does not mean anything if there are no individuals rights, individuals' freedoms and freedom of speech. States, governments, laws and policies have instrumental value to protect and promote individuals which have intrinsic value. Thirdly, in contrast to view that remedy would be worse off than the evil, more precisely, unjust law is better than lawlessness at all view, i contended that by breaking the law not always greater wrong is done, civil disobedience can not only be tolerable but also praise-worthy. Most importantly, greater evil is blind obedience to laws, as we have seen at authoritarian governments. While thinkers underline the goodness produced by obedience, they take for granted that obedience always produce goodness. In contrast to them, i contend that individuals serve the devil unintentionally, in various context. If we lost our sense of autonomy and obey authorities and laws silently without critical thinking, then we find ourselves in the hands of authoritarian regimes. Civil disobedience is not free riding just because their demands are not selfish but self-interested. Otherwise, they disobey the law secretly, but they disobey the law, openly to persuade other on injustice or unconstitutionality of law. Fourthly, there was fair play argument: just because if one benefit from the goodness produced by obedience of members of the political society, but refuse to obey law, then he acts unfairly to the members of the society. In contrast to this view, i contended that it is fair in the first place, just because it openly and non-violently tries to persuade others. Lastly, there was also gratitude arguments: it means that just because citizen benefits from the state,

one also has an obligation towards it. I contended that individuals have no gratitude the state, but only have respect to citizens of his country just because they produce the goodness by obedience to laws. but it does not mean one must always obey the laws to produce good, sometimes one should disobey for different moral values and principles. In other words, paper has argued that there is nothing valuable neither in obedience nor in disobedience to law per se. Human dignity and autonomy has intrinsic value, while laws have an only instrumental value. Just because, there is nothing valuable per se in obeying the law apart from the outcome it produces (Simmons, 1979, 48). As Simmons underlines, this view not only show that we ought to obey, but also that we ought to disobey.

At the fourth chapter, i illustrated various justifications and underlines its instrumental value to achieve various intrinsic values. In this context, paper offered civil disobedience as a moral principle, civil disobedience as a moral value and civil disobedience as a practice of virtue. More precisely, while Thoreau (1849), King (1963) and Bedau (1968) underlined justice; Raz (1979) and Morreall (1991) praised autonomy. They considered civil disobedience as a moral principle. On the other hand, while Arendt (1972) and Markowitz (2005) emphasized politics and democracy, Dworkin (1977) indicated common interest and they considered civil disobedience as a moral value. At the third section, Moraro (2010) indicated importance of respect to autonomy of fellow citizens and consider civil disobedience as a practice of virtue.

At the last chapter, i underlined that civil disobedience can be justified not only morally: as a moral principle, as a moral value and as a practice of virtue; but also it can be justified politically, because it has instrumental value to overcome democratic deficits and to participate politics. Democracies are imperfect and has inevitable democratic deficits, which need active citizenship. So, not only good persons, but also good citizens sometimes disobey the laws. I underlined a crucial point of my thesis, problem of civil disobedience is relevant, and has a great influence at every dimension of politics at all around the world, as we have seen at the last decade. So, even one undertakes civil disobedience as a moral principle, as a duty and do not focuses on the consequences of his act – in contrast to one who undertake it as a moral value-, it has a great influence not only on government but also on society. More precisely, the way government and society treat and defines its opponents says a lot about the nature of power in that society. One who disobey the law, appeals to conscious of others and try

to persuade others on injustice or unconstitutionality of law. In other words, civil disobedience aim communication by disobeying. So, it should be open, and fair notice. Dissenters should not cover their faces, identities and escape from police. It is most likely to appearing at trial but defending himself against charges should not be considered as side effect of undertaking civil disobedience, but as a chance persuade others. It is inherent part of civil disobedience' communication aim. We should also not forget that, at most of the examples of civil disobedience, dissenters appear at trial, even sentenced to prison. Dissenters venture disobedience, with hope to persuade community on unjust or unconstitutional laws, it represents civil courage.

I argued that civil disobedience is sometimes not only permissible but also praise-worthy within a democratic state. Civil disobedience is praise-worthy because, good citizens sometimes disobeys the laws. Good citizen is who respect another citizens' autonomy. Autonomy is the condition of choosing her conception of good life. Democracy is valuable just because it protects and advance autonomy of its subjects. Today, politicians may tend to consider dissenters, who undertake civil disobedience as marginal, terrorist according to their point of views. But neither elected politicians, nor state's officials have no right to declare anybody marginal. Democracy get its legitimacy from people, so citizens must be persuaded on justice and constitutionality of laws. Having power to coerce dissenters, does not bring authority over them. So, considering those who undertake civil disobedience as marginals, only cause further legitimacy problems. In this context, paper argues that there is nothing valuable neither in obedience nor in disobedience to law per se.

To conclude, in contrast to the law that exist is a just law argument, i contend that it is false. To illustrate the logical background:

- If one right and moral, then one obeys the law.
- One disobeys the law.
- Then he is wrong and immoral.

In contrast to this view i claim that law is not the source of morality. Just the opposite, laws are created according to various moral values and principles. As we have seen, in various context, obedience to law is immoral, and disobedience to law is moral. It also can be undertaken to overcome inevitable democratic deficits, and to participate politics.

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