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THE DISSENT OF THE GOVERNED

Mortimer Adler

The right of the people to institute a government that secures their human rights would appear to have its foundation in their right to liberty; more specifically, that mode of freedom which is political liberty, the freedom of those who participate in popular sovereignty. According to the Declaration, a free people has another right: the right to alter or abolish any form of government that fails to protect or that violates their natural rights.

The second right, like the first, would appear to have its foundation in the same natural right, the right to liberty. But the two rights that derive from the right to liberty are not themselves natural rights. What can be said of all natural rights—that they arise from needs inherent in human nature—cannot be said of them. Nor are they, strictly speaking, civil rights, for they are not established by the provisions of a constitution, like the right to freedom of speech, or by legislative enactments. In what sense are they rights? Is it correct to call them rights?

The declaration of a right is often a short way of saying that certain actions on the part of a people can be justified—that is, it can be regarded as in conformity with the principles of justice. On the basis of having the natural right to liberty, especially the freedom of self-government, a people is justified in setting up a government for themselves, to which they voluntarily give their consent.

It is equally clear that a people is justified in altering or abolishing any form of government that violates their right to liberty, as despotism does by reducing them to subjection under absolute rule. The Declaration's statement of this point, being so compressed, fails to spell out what its words suggest.

In the first place, we must note the difference between *altering* and *abolishing*. A constitutional government can be altered by amendments to its constitution; a despotic government cannot be altered, in this way.

Constitutional defects that are altered by amendments may be either defects of omission or defects of commission. They are the former when a constitution fails to secure by its provisions certain rights that are, or come to be, acknowledged as natural rights: They are the latter when one or more articles of a constitution tend to abrogate known natural rights.

As we shall see in later chapters, our Constitution has been altered by amendments in order to remedy both sorts of defects. In addition, decisions of the Supreme Court, reviewing the acts of both state and federal governments, have provided remedies for the two sorts of defects.

To the extent that amendments to the Constitution have been adopted by popular mandate, they have been enacted with the consent of the governed. Altering our form of government in this way does not involve the withdrawal of consent.

Judicial decisions declaring certain acts of government unconstitutional have sometimes been occasioned by popular dissent that, in effect, petitions the government for a redress of grievances. When popular dissent proceeds in this way to bring about a rectification of injustice by due process of law, it, too, does not involve a withdrawal of consent.

Such popular dissent may involve acts of civil disobedience by a person or a group of persons who disobey a law and willingly accept the punishment assigned for its violation in order to call attention to the injustice of the law they think should be declared unconstitutional. Cases calling for the judicial review of such legislation have come to the Supreme Court in this way.

When does dissent from civil government or civil disobedience involve a withdrawal of consent? If it does not do so when it seeks to alter a constitutional government by due process of law and without violence, then the answer must be that it does so when the actions taken seek to abolish one form of government and to replace it with another.

The word “rebellion” does not appear in the Declaration of Independence. In common usage that word has the connotation of an attempt to overthrow a government, and that is the meaning to be found in the Declaration when it speaks of a people’s right to “throw off” a government that abrogates their rights and cannot be altered by constitutional amendments and due process of law.

Despotic forms of government cannot be altered by constitutional amendments and by due process of law. Being governments by might or force, they can only be abolished or overthrown by resort to might or force. Resort to force—acts of war—is implicit in the etymology of the word “rebellion,” the Latin root of which (*re-bellare*) means return to the state of war, a state in which only force is available to resolve conflicts.

A pronouncement by John Locke, with which Jefferson was acquainted, throws light on this point. Locke wrote:

Whosoever uses force without right . . . puts himself into a state of war with those against whom he so uses it, and in that state all former ties are canceled, all other rights cease, and every one has a right to defend himself, and resist the aggressor.

The context in which the Declaration asserts the right of insurrection calls attention to a long train of abuses and usurpations on the part of the British King and Parliament that manifest their design to subject the American colonies to despotic rule. The colonists, the Declaration says at a later point, “have petitioned for redress” and their “repeated petitions have been answered only by repeated injury.” In other words, the colonists had resorted to nonviolent means of rectifying the injustices they thought had been inflicted on them. Those attempts having failed, they were left with only one resort: to take up arms and to use force to overthrow a despotic government.

According to the Declaration, the colonists were not only justified in using violent or forceful measures to overthrow the despotism to which they had been subjected; they were also under a moral obligation to do so. “It is their right, it is their duty,” the Declaration asserts, “to throw off such government.”

The right asserted, as we have seen, amounts to a justification of the act. But how shall we understand the duty, the moral obligation?

It would appear to stem from the moral obligation on the part of human beings to engage in the pursuit of happiness, to try to make morally good lives for themselves. Despotic government, abridging or abrogating the right to liberty as an indispensable means for the pursuit of happiness, prevents human beings from fulfilling their moral obligation to seek their ultimate good. It is, therefore, their duty to remove this obstacle.


Being justified in their effort to abolish or overthrow a despotic government that impairs their pursuit of happiness, the people, when successful in this effort, should not try to get along without any government, which would be a state of anarchy. They should, the Declaration tells us, “institute new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.”

The insurrection against despotism carried out by the colonists in their War of Independence was only the first step to be taken. The second step was taken five years after the war had been won, when the Constitutional Convention met in Philadelphia to set up a new form of government by drafting a Constitution and submitting it to the people for their adoption.

It should not go unremarked that the Declaration provisions this second step. Even more remarkable is the fact that, in doing so, it reflexively refers to the principles it has enunciated (the basic political ideas we have been considering) as providing the foundation for the new form of government to be instituted. It also speaks of organizing the powers of that new government in such a way that, when the Constitution is adopted, they will derive their authority from the consent of the governed.

We have reached the conclusion that only a despotic government justifies insurrection and even imposes on us a duty to rebel. With respect to constitutional government, what we are justified in doing and are also under a duty to do is not to abolish it by violent or forceful means, but rather to alter it by way of amendments and other lawful and nonviolent means.

In other words, the right and duty to overthrow a government applies only to the first step the colonists took on the road to setting up the Republic in which we live. Once the second step has been taken, enabling us to live under constitutional government, we have both the right and the duty as citizens to do what is necessary in order to rectify whatever injustices result from defects in our Constitution.

Understanding this leaves open for later consideration the problem of drawing the line between conditions that justify civil dissent within the boundaries of consent and conditions that justify the withdrawal of consent from a duly constituted government. It also postpones until later the question as to whether a completely just form of government should provide its people with adequate and sufficiently speedy means for civil dissent that seek to obtain redress for grievances or to remedy injustice within the boundaries of consent. 

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Founded in 1990 by Mortimer J. Adler & Max Weismann

Elaine Weismann, Publisher and Editor

Phone: 312-943-1076 Mobile: 312-280-1011

David S. Peterson, Managing Director

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