

Review: Augusto Zimmermann and Gabriel Moens, *The Legal Right to Disobey Law: A Natural Approach to Free Speech and Civil Disobedience*, Sidestream Press, Sydney, NSW, 2026

Pages: 203

The Law of Disobedience

A commendable case that natural law must prevail and gives every free man the right to remain so, albeit at the very real prospect of state persecution. Given the history of the Reformation figures mentioned, today's Christendom has fallen so far it is unrecognisable.

From a secular or non-Christian angle the story is similar; the Chinese had their 'Mandate of Heaven' to bind emperors, and courts have found the Nuremberg defence unacceptable.

The question remains whether Christians in the West will push back and claim their-God given freedoms, or continue to acquiesce?

Foreword (pp. 7-13)

A Christian forced to choose God over Caesar must be willing to accept the penalty

Preface/Note (pp. 14-18)

Legal practitioners have been raised to believe there is no higher authority than fashion.

I) The Collapse of Western Values (pp. 19-30)

Natural law holds certain rights are independent of legal systems; legal positivism denies this.

Asymmetric Multiculturalism is White discrimination.

Most simply comply with any law due to fear, peer pressure, or habit.

II) What Is Civil Disobedience? (pp. 31-41)

The most basic form is personal disobedience; these should be public and non-violent.

Natural law is “the light of intellect infused within us by God”.

The 12th C BC Chinese “Mandate of Heaven” meant only an understanding ruler was fit to govern.

III) The Higher Law Within an Ancient Greek and Roman Framework (pp. 42-48)

Aristotle: “law is reason without passion.”

Ernest Baker: “Nature was synonymous with Reason, and Reason was synonymous with God.”

Political tyranny is the negation of natural law.

Cicero: “The most foolish notion of all is the belief that everything is just which is found in the customs or laws of nations.”

IV) The Higher Law Within a Christian Framework (pp. 49-74)

Prof John Witte, Jr: “Libertarianism sacrifices community of the individual and totalitarianism the individual for the community.” [p52]

Examples:

-Christ: “Render into Caesar the things that are Caesar’s”

-Egyptian midwives disobeyed Pharaoh.

-Rahab lied to the soldiers.

-Esther fought the command to kill the Jews.

-The wise men ignored Herod and departed home another way.

Peter: “We must obey God rather than men.”

Francis Schaeffer; “If there is no final place for civil disobedience, then the government has been put in the place of the Living God.” [p58]

Calvin was a lawyer.

The Puritans brought Huguenot thinking to North America.

John Knox (1513-72): “resistance to tyranny is resistance to the Devil himself”. His successor, Andrew Melville (1545-1622) consolidated Presbyterianism in Scotland.

V) The Higher Law Within a Western Framework (pp. 75-86)

John Locke was born 1634 into a Calvinist family in England. He was a Creationist. His work had great impact on the *Unanimous Declaration of the Thirteen United States of America*.

Sir Edward Coke (1552-1634) was to public and private English law as the translators of the Authorized Version of the Bible have been to religion: “Law should enforce God’s law and counteract the wills of the devil.”

Lex Aeterna: the moral law.

Coke displeased James I by subjecting him to *Lex Aeterna*, who then shook his fist at him: “Quod rex non debet esse sub homine, sed sub Deo et Lege.”

Sir William Blackstone’s (1723-80) *Commentaries* were the foundation of American law and government.

VI) The Doctrine of the Lesser Magistrate (pp. 87-97)

Military must disobey illegal orders.

Everyone is a ‘lesser magistrate’ as they answer to superiors in one form or another.

Calvin: “obedience to man must not become disobedience to God.”

Amongst law enforcement, “there should be a coordination of consciences, not subordination.”

VII) The Failure of Lesser Magistrates to Resist Immoral Orders: The German Border Guard Cases (pp. 98-109)

On 11/3/1992, the German Federal Court of Justice found border guards which killed fleeing East Germans guilty (both had ‘shoot to kill’ orders). It noted the East Germans kept killings secret which removed their defence of using shootings as a deterrence.

Act of State Doctrine: a defendant acting in his duty in the interest of another state enjoys immunity from legal actions since all nations are sovereign.

Prof. Gustav Radbruch: pernicious laws may be valuable since they promote legal certainty.

Nulla poena sine lege: “there is no punishment without law”.

In absence of universal norm, morality of the state was defined by the state itself.

Prof. Rudolf Geiger: “The Marxist-Leninist concept stressed the superiority of the socialist state’s interest over the preferences of individuals.” [p109]

VIII) Natural Law and Civil Disobedience (pp. 110-117)

Arguments base on the ‘minimum’ of natural law are deficient.

IX) Free Speech and Civil Disobedience (pp. 118-133)

In Ancient Greece only slaves had no free speech.

X) Freedom of the Press and Civil Disobedience (pp. 134-153)

Facial ‘microexpressions’ of 0.5-4s can’t be faked.

XI) Democracy and Civil Disobedience (pp. 154-165)

XII) Diversity and Civil Disobedience (pp. 166-177)

XIII) The ‘Rule of Law’ and Civil Disobedience (pp. 178-188)

Locke: “the end of law is to enlarge freedom, not restrict it”.

RoL is a metaphysical doctrine.

IV) The Right to Resist as a Meta-Right (pp. 189-198)