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Civil Disobedience in Latter-day Saint Thought

Nathan B. Oman

The twelfth article of faith declares, “We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law” (A of F 1:12). On its face, this statement seems to be an unqualified acceptance of legal authority, one that would suggest that Latter-day Saints ought to shun civil disobedience. However, a closer look at Restoration scripture, teachings, and experience reveals a more complicated picture. To be sure, law-abidingness has long been central to the Saints’ identity, particularly in the twentieth and twenty-first centuries, and like the New Testament, Restoration scripture generally accepts the need to “render to Caesar the things that are Caesar’s” (Mark 12:17) and affirms the legitimacy of the “powers that be” (Rom. 13:1). However, there has never been a clear consensus among Latter-day Saint authorities on the precise extent to which the Saints owe deference to secular law. From the beginning, members of The Church of Jesus Christ of Latter-day Saints have insisted that there are limits on the duty of obedience that Latter-day Saints owe to Caesar.

The Authority of Law in Restoration Scripture

While the Articles of Faith have been included in the Church’s canon, they were not received by revelation like most of the sections in the Doctrine and Covenants. Rather, the Articles of Faith formed the conclusion of a document known as the “Wentworth Letter,” which was prepared by Joseph Smith and his associates at the request of a Chicago newspaper

editor who sought a summary of Latter-day Saint history and beliefs.¹ The Articles of Faith themselves are largely modeled on an earlier statement of the Saints' beliefs in a missionary pamphlet penned by Orson Pratt.² Interestingly, however, while most of the Articles of Faith have antecedents in the Pratt pamphlet, the twelfth article of faith is unique to the Wentworth Letter. The letter itself was penned in 1842, when political and legal controversy around the Saints in Illinois was intense. Joseph Smith was resisting extradition efforts by the state of Missouri, efforts that Latter-day Saints assumed would result in his murder if successful. Accusations of lawlessness against the Saints were common, and not surprisingly for a document aimed at a nonmember audience, the Wentworth Letter was at pains to emphasize the civic loyalty of Latter-day Saints.

Other Restoration scripture, however, offers a more nuanced take on legal obedience. The most extensive discussion of secular government in the Doctrine and Covenants comes in section 134. Strikingly, this document was also not given as a revelation. Rather, it was written by Oliver Cowdery and adopted in Joseph Smith's absence by a Church conference. Again, the context was public controversy around accusations of Latter-day Saint lawlessness, this time amid the growing tensions and persecution in Missouri. Section 134 states, "We believe that all men are bound to sustain and uphold the respective governments in which they reside," but immediately qualifies this duty by saying, "while protected in their inherent and inalienable rights" (D&C 134:5). Those rights include "the free exercise of conscience, the right and control of property, and the protection of life" (D&C 134:2). In contrast to the apparently unqualified duty of legal obedience later announced in the twelfth article of faith, section 134 gestures toward a limited conception of legal authority of a kind similar to that found in the Declaration of Independence.

The earliest of Joseph Smith's revelations to address the topic of law suggests that ultimate legal authority lies with God, not the secular state.

1. According to the Joseph Smith Papers editors, "it is not known how much of the history was originally written or dictated by JS." See "Historical Introduction" for "Church History," 1 March 1842, 706, Joseph Smith Papers, accessed July 27, 2021, <https://www.josephsmithpapers.org/paper-summary/church-history-1-march-1842/1#historical-intro>.

2. See David J. Whittaker, "The 'Articles of Faith' in Early Mormon Literature and Thought," in *New Views on Mormon History: Essays in Honor of Leonard J. Arrington* (Salt Lake City: University of Utah Press, 1987), 63–92; Orson Pratt, *An Interesting Account of Several Remarkable Visions* (Edinburgh: Ballantyne and Hughes, 1840).

In January 1831, the Lord declared that “in time ye shall have no king nor ruler, for I will be your king. . . . And you shall be a free people, and ye shall have no laws but my laws when I come, for I am your lawgiver” (D&C 38:21–22). With the gathering of the Saints to build up Zion, many converts took this promise literally, believing that at best secular law would shortly fade away in the imminent Second Coming of Christ. Accordingly, the Lord declared later the same year, “Let no man break the laws of the land, for he that keepeth the laws of God hath no need to break the laws of the land. Wherefore, be subject to the powers that be, until he reigns whose right it is to reign” (D&C 58:21). However, as mobs were expelling the Saints from Jackson County, Joseph Smith received a revelation that significantly qualified the claims of legal authority: “And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me” (D&C 98:5). The revelation continued, “And as pertaining to law of man, whatsoever is more or less than this, cometh of evil” (D&C 98:7).

Taken as a whole, Restoration scriptures suggest that there is a strong *prima facie* obligation to obey the law. However, this is an all-things-being-equal obligation, not an all-things-considered obligation. The voice of the Lord in latter-day revelation insists that ultimate authority lies with God, not the state. Human laws demand human respect so long as they are broadly congruent with the laws of God and at a minimum protect “free exercise of conscience” (D&C 134:2) and other “inherent and inalienable rights” (D&C 134:5). Any law that fails to meet these standards “cometh of evil” (D&C 98:7). Alongside this theology of law, however, are defensive claims made to an often-hostile world that insist on nearly unlimited allegiance of Latter-day Saints to secular authority. The roots of this broader obligation to obey the law lie in the need for vulnerable Latter-day Saint communities to assure legal authorities that they are not a threat and therefore not fit objects of legal and political attacks. Importantly, this more defensive posture suggests that Latter-day Saints have an obligation to obey the law so as to protect the community of the Saints in precisely those cases where the state fails to meet its minimum obligation to protect “free exercise of conscience” (D&C 134:2).

Conscientious Objection and Civil Disobedience

The term “civil disobedience” does not have any precise, technical meaning. It entered the modern lexicon largely through Henry David Thoreau’s short essay “Civil Disobedience,” in which he justified his refusal

to pay federal taxes that were going to be used to support the Mexican-American War and the enforcement of the fugitive slave laws.³ As Thoreau's usage suggests, civil disobedience involves deliberate lawbreaking but not necessarily lawlessness or criminality. Rather, civil disobedience refers to some morally serious decision to disregard the law. Civil disobedience thus is not the same thing as a general rejection of the moral authority of the law. Those who engage in civil disobedience are not philosophical anarchists. Rather, as in Thoreau's case, civil disobedience is directed against particular laws.

It is useful to differentiate between two different ways in which the rejection of legal obedience might figure in one's moral calculations. We can refer to these different ideas as "conscientious objection" and "civil disobedience." This distinction is important because the Latter-day Saint tradition has been more congenial to the former than to the latter.

Conscientious objection refers to the idea that one refuses to obey the law because of deep moral scruples about the act of individual obedience to a particular law. This might be because the law requires one to do something that deeply offends one's sense of right moral action. The classic case of conscientious objection in American law is the case of the religious pacifist who refuses to serve in the military, even when the law demands that he be drafted into the army. There is a tradition of accommodating such objections, for example by allowing Quakers drafted into the military to serve in the medical corps. A closely related objection has to do with the idea of complicity. Thoreau, for example, did not regard the payment of taxes as immoral in and of itself. Rather, he objected to the payment of taxes when doing so would make him complicit in some greater evil, an aggressive war of conquest against a neighboring country. The Quaker who serves in the ambulance corps, in contrast, may be willing to be complicit in his country's war machine, so long as he is not required to take a human life himself. Both are examples of conscientious objection. Crucially, conscientious objection is not a political tactic. It is not directed toward achieving some concrete goal. Rather, it is an assertion of personal morality and is directed not at a social outcome but rather at the morality of individual conduct.

Civil disobedience, in contrast, *is* a political tactic. Calling it a political tactic does not imply any lack of moral seriousness, only that the

3. See Henry David Thoreau, "Civil Disobedience," in *Henry David Thoreau: Collected Essays and Poems*, ed. Elizabeth Hall Witherell (New York: Library of America, 2001), 203–24.

moral concern is directed toward the community at large and the shape of its laws. The classic example of civil disobedience in this sense is the Civil Rights Movement of the 1950s and 1960s. Taking their inspiration from the example of Mahatma Gandhi, Martin Luther King Jr. and his followers deliberately violated segregationist laws. By riding on buses or sitting at lunch counters reserved by law for white people, African American protesters invited criminal prosecution in order to dramatize the injustice of those laws and work for their abolition. In practice, of course, there is often no neat distinction between conscientious objection and civil disobedience. One might refuse to become complicit in some wicked law from a sense of personal moral integrity while at the same time courting prosecution as part of a campaign to repeal that wicked law. However, conceptually the moral logic of each approach is distinct.

Latter-day Saint experience provides examples of both conscientious objection and civil disobedience. However, the strong *prima facie* obligation to obey the law, particularly in contemporary Latter-day Saint thought, means that both activities have required special justifications. Furthermore, of the two, Church teachings and history have proven more hospitable to conscientious objection than to civil disobedience.

The Latter-day Saint Tradition and Conscientious Objection

The most striking example of conscientious objection in Latter-day Saint history came in the 1880s, when thousands of Saints deliberately flouted federal laws against polygamy. Joseph Smith introduced the doctrine of plural marriage to certain trusted Church members during the Nauvoo period (see D&C 132). He taught that polygamy was a way in which the Saints should imitate the ancient patriarchs and obtain eternal blessings. Unsurprisingly, the practice was hugely controversial, and initially the Prophet tried to keep its practice secret. Hostility toward plural marriage, however, was one of the contributing factors to his murder in 1844 and the expulsion of the Saints from Illinois a few years later. In 1852, the Church, having established itself in the remoteness of the Great Basin, publicly endorsed the practice, and four years later, the newly formed Republican party declared polygamy one of the “twin relics of barbarism” (the other was slavery) that had to be excluded from U.S. territories.⁴

4. “Republican Party Platform, 1856,” in *National Party Platforms*, vol. 1, 1840–1956, comp. Donald Bruce Johnson (Champaign: University of Illinois Press, 1956), 27.

Congress responded in 1862 with the Morrill Anti-Bigamy Act, which criminalized polygamy. For over a decade, the law was unenforced until the Supreme Court upheld its constitutionality in 1879. The Latter-day Saints, however, insisted that plural marriage was a religious commandment and that the Supreme Court had erred in holding that the Morrill Act did not violate the Constitution's protections for the free exercise of religion, and they refused to comply with the law. Congress responded in the 1880s with a series of ever more punitive laws and a policy of mass prosecution and incarceration aimed at Latter-day Saint polygamists. The legal crusade against plural marriage ended with the 1890 Manifesto, although the Church did not move decisively to end polygamy until the early twentieth century. The "Raid," as the Saints called this period, marked the most intense period of legal hostility toward the Latter-day Saints and continues to stand as the most prolonged confrontation between law and religion in American history.

Church members in the 1880s were keenly aware of the twelfth article of faith and the passages in Restoration scripture that enjoined members to honor and sustain the law. Nevertheless, Latter-day Saints insisted that they were justified in refusing obedience to the antipolygamy laws. They deployed a number of arguments to justify their position. First, they insisted that antipolygamy legislation was itself illegal because it violated the U.S. Constitution. When the Supreme Court held otherwise, the Saints insisted that it might at some future time reverse its decisions. Next, Latter-day Saints argued that the antipolygamy laws were being unfairly administered, singling out Latter-day Saints because of their religious beliefs, despite the protestations of federal officials that they were aiming only at criminal behavior and were not motivated by religious animus. Finally, many insisted that they were justified in resisting the law because of their loyalty to the higher law of revelation.

Future Apostle Rudger Clawson provided a succinct statement of the Latter-day Saint case for conscientious objection in 1884. He had been found guilty of violating federal antipolygamy laws and was asked at sentencing what he had to say in mitigation of his offense. He told the court: "Your Honor, . . . I very much regret that the laws of my country should come in contact with the laws of God; but whenever they do I shall invariably choose the latter. If I did not so express myself I should feel unworthy of the cause I represent."⁵ He went on to make the by-then

5. "Sentence of Rudger Clawson, and His Speech before the Court," *Millennial Star* 46, no. 48 (December 1, 1884): 741.

rejected argument that the Morrill Act violated the First Amendment. After all of the legal and rhetorical maneuvering, for Clawson the anti-polygamy laws created a stark choice between obeying the laws of God and obeying human laws, and he insisted that he had to choose the divine commands over secular commands.

The Latter-day Saint Tradition and Civil Disobedience

It is more difficult to find instances of Latter-day Saint civil disobedience. However, such instances exist. In part, the resistance to the Raid can be thought of as involving a strategy of civil disobedience. Latter-day Saints were not simply refusing to obey laws that they insisted required them to violate divine commands. They also claimed that if the Saints en masse ignored such laws, it would convince the nation of the laws' injustice or at least impracticability. In 1856, as the Republican Party launched its attacks on plural marriage, Brigham Young insisted, "They will have to expend about three hundred millions of dollars for building a prison, for we must all go into prison. And after they have expended that amount for a prison, and roofed it over from the summit of the Rocky Mountains to the summit of the Sierra Nevada, we will dig out and go preaching through the world."⁶ In his hyperbolic way, President Young was making a classic tactical argument in favor of civil disobedience. By violating an objectionable law en masse, the Latter-day Saints would make enforcing the law so expensive that it would be abandoned.

President Young gave his speech at the very beginning of the federal government's antipolygamy crusade, before Congress had passed any laws against polygamy. Three decades later, when the Raid was at its height, hundreds of polygamist Saints had been sent to prison, and numerous plural wives had been prosecuted for perjury and other crimes when they refused to cooperate with law enforcement officials in convicting their husbands. A First Presidency letter to the Saints signed by John Taylor and George Q. Cannon again invoked the idea of deliberate lawbreaking as a means of legitimate expression: "Every man who goes to prison for his religion, every woman who, for love of truth and the husband to whom she is bound for time and eternity, submits to bonds and imprisonment, bears a powerful testimony to the world concerning the falsity of the views they entertain respecting us and our religion. If such noble and heroic sacrifices as men and women are now called upon

6. Brigham Young, in *Journal of Discourses*, 26 vols. (Liverpool: F. D. Richards, 1855–86), 4:39 (August 31, 1856).

to make for their religion by Federal Courts do not teach the world the truth concerning us, then woe to the world.”⁷ Of course, the strategy of changing hearts and minds by deliberately violating the law and then submitting to its punishments proved ineffective for nineteenth-century Latter-day Saints. Minds were not changed. Indeed, the Saints’ resistance only further enraged antipolygamist activists, who responded with ever-more punitive laws until the Latter-day Saints were faced with a choice between submission or the institutional annihilation of the Church.

Perhaps because of the spectacular failure of civil disobedience as a political strategy for nineteenth-century Latter-day Saints, contemporary Church leaders have tended to endorse Jeremy Bentham’s maxim for dealing with unjust or unwise laws: “to obey punctually; to censure freely.”⁸ For example, in the wake of World War II, the United States considered universal compulsory military service for all young men. The First Presidency issued a strongly worded statement in 1945 attacking the proposal. Such a measure, the First Presidency argued, would “deprive [young men] of parental guidance and control at this important period of their youth,” derail the educational plans of young men, “teach our sons . . . to kill,” deprive them of “adequate religious training and activity,” and encourage a host of other evils.⁹ “What this country needs and what the world needs,” they insisted, “is a will for peace, not war.”¹⁰ Notwithstanding these objections, however, the First Presidency also instructed leaders and members to cooperate with the peacetime military draft.

During the social upheavals of the 1960s and 1970s, the term “civil disobedience” came to be associated in Church discourse not only with peaceful protest but also with lawlessness and contempt for authority in general. Accordingly, it is easy to find condemnations of “civil disobedience” in official publications, although the term is generally used imprecisely. However, civil disobedience in the more precise way we have been using it here has also been discouraged as a political tactic, even in favor of positions that have been endorsed by the Church. In 1995, for example, James E. Faust of the First Presidency gave a public address

7. “An Epistle from the First Presidency,” in *Messages of the First Presidency*, ed. James R. Clark, 6 vols. (Salt Lake City: Bookcraft, 1966), 3:35.

8. Jeremy Bentham, preface to *A Fragment on Government*, *The Works of Jeremy Bentham*, comp. John Bowring, 11 vols. (Edinburgh: Simpson, Marshall, 1843), 1:230.

9. “Statement by the First Presidency Regarding Universal Compulsory Military Training,” December 14, 1945, in *Messages of the First Presidency*, 6:240–41.

10. “Statement by the First Presidency,” 6:242.

in which he discussed a member who urged “that the Church resort to civil disobedience and violence because of the moral wrongness of abortion.”¹¹ President Faust responded, “Civil disobedience has become fashionable for a few with strongly held political agendas. Even when causes are meritorious, if civil disobedience were to be practiced by everyone with a cause our democracy would unravel and be destroyed. . . . I tried to explain that when we disagree with a law, rather than resort to civil disobedience or violence, we are obliged to exercise our right to seek its repeal or change by peaceful and lawful means.”¹²

Legal Obedience and Latter-day Saints as a Vulnerable Minority

Since World War II, the twelfth article of faith’s insistence that Latter-day Saints believe in “obeying, honoring, and sustaining the law” (A of F 1:12) has emerged as a consistent theme in official teachings about secular authority. This period corresponds with the massive missionary outreach that has resulted in the appearance of Latter-day Saint temples and stakes around the world. It has now been several generations since the typical member of the Church was an American citizen living in the predominantly Latter-day Saint regions of the Intermountain West. Today the majority of members of record live outside the United States, and Latter-day Saints are generally a tiny minority in the societies in which they live. Suspicion and hostility toward Church members remain, and Latter-day Saints have frequently been the targets of hostile governments and political leaders. During the 1980s and 1990s, leftist guerilla movements across Latin America murdered Church missionaries, and the Sandinista government in Nicaragua connived at the confiscation of Church buildings. For a time, the government of Ghana banned the Church, and Latter-day Saints have been the targets of legal harassment from Venezuela to Russia. Given this reality, the emphasis on legal obedience can be seen as part of a deliberate strategy to protect Latter-day Saint communities by convincing at-times hostile governments that Church members do not pose a political threat.

This means, however, that Latter-day Saints have often found themselves emphasizing legal obedience in precisely those contexts where legal regimes have been the most hostile. Rather than encouraging conscientious objection or civil disobedience, the Church has tried to

11. James E. Faust, “The Integrity of Obeying the Law,” July 2, 1995, Freedom Festival Fireside, Provo, Utah.

12. Faust, “Integrity of Obeying the Law.”

formulate the minimum legal conditions for living as a faithful member and has refrained from missionary efforts in regimes that cannot meet even these basic standards. Those standards were articulated by David Kennedy, a former U.S. Treasury Secretary who was tapped by President Spencer W. Kimball to act as a special ambassador for the First Presidency. Kennedy wrote, “So long as the government permits me to attend church, so long as it permits me to get on my knees in prayer, so long as it permits me to baptize for the remission of sins, so long as it permits me to partake the sacrament of the Lord’s Supper, and to obey the commandments of the Lord, so long as the government does not force me to commit crime, so long as I am not required to live separately from my wife and children, I can live as a Latter-day Saint within that political system.”¹³ While Kennedy’s formulation contains a certain amount of ambiguity—what precisely is involved in “obeying the commandments of the Lord” or “committing crime”?—in practice, this statement means that Latter-day Saints have endorsed legal obedience to odious regimes, such as the German Democratic Republic of Erich Honecker and the death-squad-wracked Chilean regime of Augusto Pinochet.

The ultimately ambiguous position of the Church and the difficult situation in which this stance can place Latter-day Saints are vividly illustrated by the case of Helmuth Hübener. Born in 1925, Hübener lived in Hamburg, Germany. He was raised as a Latter-day Saint and was active in his local branch. During the 1930s, German Latter-day Saints tried to allay Nazi suspicion of the American Church by emphasizing the commonalities between the teachings of the Church and those of the new Germany, seizing on the Nazi hostility to tobacco and drunkenness. However, the Nazi government suppressed missionary pamphlets making this claim, the Gestapo investigated Church branches, one man was sentenced to a concentration camp for developing pictures of American missionaries disrespectfully holding a Nazi flag, and at least one convert of Jewish ancestry was sent to the Theresienstadt death camp. Latter-day Saints responded by emphasizing their obedience to secular law and trying to avoid official attention. In 1941, Hübener began listening to war news on the BBC in violation of wartime German laws. Based on what he learned, he authored and secretly distributed anti-Nazi pamphlets with three friends. In 1942, a coworker denounced Hübener to

13. Quoted in Martin Berkeley Hickman, *David Matthew Kennedy: Banker, Statesman, Churchman* (Salt Lake City: Deseret Book, in cooperation with the David M. Kennedy Center for International Studies, 1987), 340–41.

the Gestapo, and the seventeen-year-old was eventually tried for treason and executed. Before Hübener's execution, his nonmember stepfather falsely fingered another Latter-day Saint, Otto Berndt, as the instigator of the plot, and Gestapo agents held Berndt for four days and interrogated him before releasing him. Hübener's pro-Nazi branch president excommunicated him, and the temporary mission president approved the action. However, after the war, the First Presidency reviewed the excommunication and posthumously reversed the local leaders' decision, restoring all of Hübener's blessings.¹⁴

The above incident illustrates the way that Latter-day Saint obedience to the law can be a defensive reaction to an ultimately illegitimate regime rather than an affirmation of the regime's legitimacy. There was nothing in official Church teachings that overtly encouraged Latter-day Saints to resist the Nazi regime. Rather, there was widespread distaste for Nazism—despite some scattered local supporters—and an effort to avoid the attentions of the Gestapo. Hübener's opposition to the regime was undoubtedly fueled by his moral indignation against Nazism, a moral indignation that flowed from his upbringing as a Latter-day Saint. Nevertheless, Hübener's actions endangered his co-religionists. The reaction of the Church as an institution was ambiguous, first cutting Hübener off, in large part as a defensive measure, and then posthumously acknowledging the justice of his actions through reinstatement.

Conclusion

In the end, there is no simple answer to the question of whether or not Latter-day Saints may engage in civil disobedience. The twelfth article of faith suggests an almost unlimited obligation to comply with secular law.¹⁵ The Articles of Faith, however, are not the only place where Restoration scripture discusses the obligation to obey the law. The Doctrine

14. The details in this paragraph are taken primarily from Joseph M. Dixon, "Mormons in the Third Reich: 1933–1945," *Dialogue: A Journal of Mormon Thought* 7, no. 1 (1972): 70–78. See also Blair R. Holmes and Alan F. Keele, comps., trans., eds., *When Truth Was Treason: German Youth against Hitler* (Urbana: University of Illinois Press, 1995); Alan F. Keele and Douglas F. Tobler, "The Führer's New Clothes: Helmuth Hübener and the Mormons in the Third Reich," *Sunstone* 5, no. 6 (November–December 1980): 20–29, <https://sunstonemagazine.com/wp-content/uploads/sbi/articles/024-20-29.pdf>.

15. It is striking, for example, that the text of the twelfth article of faith goes out of its way to insist that the obligation to sustain the law is not contingent on the particular form of government, insisting that Latter-day Saints are to be "subject to kings, presidents, rulers, and magistrates" (A of F 1:12).

and Covenants suggests a more limited duty of obedience, one that is broadly speaking contingent on the legal system being what might be called “a nearly just . . . regime.”¹⁶ In practice, Latter-day Saints and their leaders have endorsed both conscientious objection and civil disobedience at different times and depending on the circumstance. When pushed by a hostile state, some Saints have been willing to declare, as did Rudger Clawson, that if “the laws of my country should come in contact with the laws of God, . . . I shall invariably choose the latter.”¹⁷ However, history also reveals that the calculus for Latter-day Saints has never been as simple as Clawson suggested. Church leaders have generally counseled obedience to unjust laws coupled with engagement to improve them. More tellingly, in the face of at-times suspicious and vicious governments, Latter-day Saints have been counseled to obey the law as a way of protecting themselves and their community from predatory state actors. In short, the Restoration does not provide us with any neat or clear answer to the perennial question of where to draw the line between the claims of God and the claims of Caesar. Rather, it gives Latter-day Saints a native tradition within which they may consider such questions.

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16. This term is borrowed from the political philosopher John Rawls, who uses it in his discussion of the obligation to obey the law. See John Rawls, *A Theory of Justice*, rev. ed. (Oxford: Oxford University Press, 1999), 293.

17. “Sentence of Rudger Clawson, and His Speech before the Court,” 741.