

# AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE

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## COVER

Painted wood kachina doll made in the 19th century by a Hopi Indian of the southwestern United States. Such dolls are carved and decorated to represent supernatural beings. See review of *American Indian Painting of the Southwest and Plains Area*, page 35. [The Brooklyn Museum, Brooklyn, New York]

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## Concerning Dissent and Civil Disobedience

What rights are exercised, and what rights are violated, when students forcibly occupy a campus building, when participants in the Poor People's Campaign march to the U.S. Capitol with the intention of being arrested there, or when critics oppose the war in Vietnam? Abe Fortas, newly appointed Chief Justice of the Supreme Court, has written an admirably brief and clear explanation\* of the constitutional principles involved.

The need to understand the principles will continue. The war in Vietnam is not the first and may not be the last unpopular war. Much has been achieved in the removal of racial discrimination, but the much is still too little. Justified student complaint must be distinguished from disruptive intent. The dean of Howard University's Law School has described the dilemma of his students in wanting to follow the law yet wanting to change radically our legal and social structure. The reformer's appetite is increased, not satisfied, by moderate initial success. The need to understand the principles involved will not soon disappear.

The rights to dissent, to advocate social change, to oppose government policy and practice, to change government itself—all these, if carried out by peaceful means, are protected under the Constitution. Fortas writes: "Nowhere in the world—at no time in history—has freedom to dissent and to oppose governmental action been more broadly safeguarded than in the United States of America, today."

But the right to dissent runs into another right. "The Constitution seeks to accommodate two conflicting values, each of which is fundamental: the need for freedom to speak freely, to protest effectively, to organize, and to demonstrate; and the necessity of maintaining order so that other people's rights, and the peace and security of the state, will not be impaired." It is actions, therefore, rather than motives or thoughts that must be judged. No matter how nobly motivated, actions that endanger others or infringe their rights are unlawful and subject to punishment.

Yet sometimes one feels it his duty to disobey a law he considers immoral, and Justice Fortas writes: "I am a man of the law. I have dedicated myself to uphold the law. . . . But if I . . . had been a Negro living in Birmingham or Little Rock or Plaquemines Parish, Louisiana, I hope I would have disobeyed the state law that said I might not enter the public waiting room reserved for 'Whites.'"

If the route of disobedience is taken, the consequences must be accepted. Acting in the great tradition of true civil disobedience, Dr. Martin Luther King warned that Negroes would disobey unjust laws, and then insisted that the disobedience be open and peaceful and that those who disobeyed accept the consequences. It may seem unduly harsh to fine or jail a person who violates a law he believes immoral or unconstitutional, but this is the rule of law—the rule of law that is essential to the procedure we have developed to protect dissent and to encourage peaceful change. The objectives of a particular movement or protest may be of great importance for the quality of our lives, but preservation of the procedure is our guarantee of future change and improvement.

In a time of troubled disagreements, when the term *civil disobedience* is widely misapplied, Mr. Fortas offers help to protestors and activists in understanding their rights and the limitations on those rights, and a guide to other persons in formulating standards for judging the actions they watch with fear, with wonder, or with sympathy.—DAEL WOLFLE

\*Abe Fortas, *Concerning Dissent and Civil Disobedience* (New American Library of World Literature, New York, 1968), 64 pages, paper. 50¢.