

Civil disobedience and conscientious objection to vaccination against covid-19¹

Desobediência civil e a objeção da consciência na vacinação contra o covid-19

Diego Guimaraes Ribeiro *

Cassius Guimarães Chai **

Abstract:

Civil disobedience and conscientious objection are distinct but interrelated social practices that demonstrate the opposition of individuals to specific laws, policies, directives, or schemes. The present study aims to analyze civil disobedience in the context of vaccination against COVID-19. The methodology adopted was qualitative, theoretical, and argumentative, based on a critical bibliographic review with a hermeneutic focus, carried out through a survey in the SciELO and Google Scholar databases, with the objective of collecting relevant data on the proposed theme. After analyzing the data, it was found that, in general, civil disobedience is more openly communicative and political than conscientious objection. Civil disobedience is, almost by definition, a violation of the law, in which individuals engage for the purpose of forcing changes in governmental or non-governmental practices. Both civil disobedience and conscientious objection can be observed in the attitudes of those who refuse to take the COVID-19 vaccine, generating urgent normative and political challenges related to the nature of the rule of law, respect for the rule of law, conditions for deliberative democracy, equality before law, policing, judgment, and punishment. Thus, it is crucial to achieve a balance between individual autonomy and collective responsibility for the promotion of public health.

Key words: Civil disobedience; Vaccination; COVID-19; Pandemic; Conscientious objection.

Resumo:

A desobediência civil e a objeção de consciência são práticas sociais distintas, porém inter-relacionadas, que evidenciam a oposição dos indivíduos a leis, políticas, diretrizes ou esquemas específicos. Nesse contexto, o presente estudo tem como objetivo analisar a desobediência civil no âmbito da vacinação contra a COVID-19. A metodologia adotada é qualitativa, de cunho teórico e argumentativo, baseada em revisão bibliográfica crítica com enfoque hermenêutico, realizada por meio de levantamento nas bases de dados SciELO e Google Scholar, com o objetivo de coletar dados relevantes sobre o tema proposto. Após a análise dos dados, constatou-se que, de modo geral, a desobediência civil é mais abertamente comunicativa e

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**Graduado em Direito pela Universidade Vila Velha (2004) e em Psicologia pela Faculdade Brasileira UNIVIX (2024), Graduando em Filosofia pela Uninter (2019), Doutorado em andamento em Direitos e Garantias Fundamentais pela FDV, Brasil (2021), Mestrado em Segurança Pública pela UVV, Brasil (2019), especialização em Direito Público, Direito Tributário, Direito Empresarial, Direito Penal e Processual Penal e Psicologia Jurídica. Advogado inscrito na Ordem dos Advogados do Brasil - Seccional do Espírito Santo. Atualmente é Controlador-Geral da Câmara Municipal de Vila Velha/ES.

***Professor permanente do PPGD FDV. Professor Associado da Universidade Federal do Maranhão (PPGDIR e PPGAERO). Diplomado pela Escola Superior de Guerra: Curso Superior de Defesa e Curso de Política e Estratégia, 2019. Graduado em Direito pela Universidade Federal do Maranhão (1994), com especialização em Direito e Sociedade pela Universidade Federal de Santa Catarina (1999), mestrado em Direito Constitucional pela Universidade Federal de Minas Gerais (2001) e doutorado em Direito pela Universidade Federal de Minas Gerais e pela Cardozo School of Law - Yeshiva University (2006). Visiting Law Professor The Normal University of Political Science and Law of Beijing e de Shanghai; Visiting Researcher and Lecturer Chinese Academy of Social Sciences - International Institute of Law. Visiting Research Scholar Cardozo School of Law, 2003. Estudos Doutorais e de pós.doutorado em Derecho Administrativo de la Sociedad del Conocimiento - Universidad de Salamanca, 2007 a 2010.

política do que a objeção de consciência. A desobediência civil é, quase por definição, uma violação da lei, na qual os indivíduos se engajam com o propósito de forçar mudanças nas práticas governamentais ou não governamentais. Tanto a desobediência civil quanto a objeção de consciência podem ser observadas nas atitudes daqueles que se recusam a tomar a vacina contra a COVID-19, gerando desafios normativos e políticos urgentes relacionados à natureza do estado de direito, ao respeito pelo estado de direito, às condições para a democracia deliberativa, à igualdade perante a lei, ao policiamento, ao julgamento e à punição. Conclui-se que é crucial alcançar um equilíbrio entre a autonomia individual e a responsabilidade coletiva na promoção da saúde pública.

Palavras-Chave: Desobediência civil; Vacinação; COVID-19; Pandemia; Objecção de consciência.

1 Introduction

The COVID-19 pandemic has established an unprecedented health crisis in recent history, causing profound impacts on daily life, the global economy, and, above all, the organization of states. The responses to the emergency required the implementation of public policies of an exceptional nature, which challenged traditional normative frameworks and strained the relationship between the constituted powers. In Brazil, this scenario exposed the fragility of health structures and the absence of efficient institutional coordination, intensifying the already existing political polarization (Alamy, 2023). Measures such as compulsory social isolation, mandatory use of masks, and vaccination were adopted to contain the spread of the virus and preserve life, putting the state in a leading position in managing the crisis. However, such measures have also reignited debates about the limits of state action, especially when they involve restrictions on fundamental freedom.

In parallel with the formulation and execution of public immunization policies, manifestations of vaccination resistance were observed. The legal responses to this conduct ranged from the imposition of administrative sanctions to attempts to reconcile individual freedoms and public duties. Some of these resistances were qualified as practices of conscientious objection because they were based on ethical or religious convictions, while others took the form of civil disobedience, insofar as they sought, deliberately and publicly, to contest the legitimacy of mandatory vaccination norms. This distinction, although not always clear in practice, is essential from a theoretical and legal point of view, as it demands from the interpreter of the law a careful analysis of the grounds invoked, the way in which the resistance manifests itself and its compatibility with democratic values.

The right to freedom of conscience is recognized as one of the highest manifestations of personal autonomy, but it is not exercised in the abstract: it must be weighed against the

legitimate interests of the community, especially in contexts of serious health risks. To understand the practices of resistance to vaccination in the context of the pandemic, it is essential to resort to the theoretical frameworks of civil disobedience and conscientious objection, distinct categories that are often confused in political and legal discourse.

To continue the initial discussion, it is highlighted that the tension between individual convictions and collective obligations has been significantly accentuated in the context of the COVID-19 pandemic, especially regarding resistance to vaccination. Such resistance, in many cases, is based on moral, political, or religious foundations, raising relevant debates about the limits of individual autonomy in the face of the need to protect collectivity. In this context, it is proposed to investigate how civil disobedience and conscientious objection to vaccination can be understood and justified within the scope of the Democratic Rule of Law and public policies for public health. This is a question that transcends the strict legality to enter the field of legitimacy of contestatory practices in times of a health crisis.

Based on this panorama, the hypothesis is that refusal to vaccinate, when based on arguments of civil disobedience or conscientious objection, can constitute a legitimate exercise of fundamental rights, provided that certain conditions are observed. However, this possibility brings with it important ethical and normative challenges that strain the boundaries between freedom of conscience and the duties of solidarity required in democratic societies. Critical analysis of this hypothesis allows us to understand the legal dilemmas imposed on the formulation of public health policies in emergency contexts.

The relevance of this research is justified by the fact that the pandemic has brought to light complex conflicts between individual rights and collective interests, highlighting the need for a more in-depth legal and philosophical reflection on institutes of civil disobedience and conscientious objection. In a scenario in which political decisions can directly affect people's lives and health, it is essential to examine whether and to what extent freedom of resistance can be reconciled with the effectiveness of public vaccination policies. In addition, the proposed approach allows us to rethink the democratic foundations of legal legitimacy and state authority during times of exception.

The general objective of this study is to analyze civil disobedience and conscientious objection in the context of vaccination against COVID-19 in light of the ethical, political, and legal foundations that structure the Democratic Rule of Law. To this end, the following specific objectives are proposed: (a) to investigate the concepts and distinctions between civil disobedience and conscientious objection in the philosophical and legal literature; (b) examine how these concepts apply to vaccination resistance during the COVID-19 pandemic; (c)

assess the ethical and legal implications of refusal to vaccinate based on individual convictions; and (d) reflect on the impact of these practices on the formulation of public health policies.

The methodology adopted was qualitative, theoretical, and argumentative, based on a bibliographic review of academic databases such as *SciELO* and *Google Scholar*, focusing on classic works and contemporary studies in the fields of Law, Philosophy and Political Science. The analysis will be conducted through the critical-hermeneutic technique, which is suitable for the interpretation of normative and institutional discourses in crisis contexts. The choice of this approach allows us to comprehend the meanings and limits of the justifications for resistance to vaccination in order to support a constitutionally oriented reading that promotes both the dignity of the human person and the effectiveness of public health policies.

To give concreteness to the proposed objectives, the article is structured in five sections, in addition to this introduction. The **first section, Conceptual Bases of Civil Disobedience and Conscientious Objection**, presents the fundamental concepts of these institutes, establishing their distinctions and points of intersection based on philosophical and legal approaches. In the second section, **civil disobedience** – the analysis of civil disobedience as a form of legitimate resistance–is deepened, based on its historical trajectory and the normative criteria that delimit it in the Democratic State of Law. The third section, **conscious objection**, is dedicated to the examination of conscientious objection, with an emphasis on its legal recognition and the ethical assumptions that underlie its admissibility. The fourth section, **Civil Disobedience in the COVID-19 pandemic**, specifically analyses the manifestations of civil disobedience and conscientious objection in the context of the COVID-19 pandemic, considering cases of refusal to vaccinate and their repercussions for public health policies. Finally, the fifth and last sections – **Final considerations** – present the conclusions, in which the main findings of the research are summarized.

2 Conceptual bases of civil disobedience and conscientious objection

Civil disobedience and conscientious objection are social practices motivated by moral and political beliefs that fall within the broader category of conscientious disobedience. The latter can be defined as non-compliance with a formal law, injunction, or directive for reasons of principle, usually for communicating beliefs to specific recipients. Civil disobedience is often characterized as an act of illegal protest of conscience, with which individuals seek to

express opposition to current legislation or policy. In this sense, it differs from conscientious objection, which manifests itself as refusal to comply with a legal directive for reasons of personal morality, without the direct pretense of institutional reform, its paradigmatic example being that of the soldier who refuses to fight in a war that he considers unjust (Monteiro Filho *et al.*, 2020).

The philosophical analysis of civil disobedience is also articulated with the foundations of the Democratic Rule of Law, especially regarding the role of civic duties in times of crisis. Alamy (2023) argues that constitutional democracy imposes on citizens not only rights but also duties of participation and responsibility, and the fulfillment of legal obligations is an expression of democratic agreement. However, tension arises when certain norms or public policies substantially contradict the individual conscience, placing the subject before the dilemma between obeying the law or preserving moral integrity. In these cases, the conflict between legal duty and moral duty gains prominence, requiring the state to have normative sensitivity to distinguish legitimate acts of resistance from simple infractions. This distinction is fundamental because legitimizing any and all disobedience under the cloak of individual conscience can weaken the legal system and undermine public trust in institutions. On the other hand, the categorical denial of the right to object can reduce the individual to a condition of moral subservience that is incompatible with the presuppositions of human dignity.

Conscientious action requires consistency between beliefs and behaviors, guided by principles that align personal judgment with intersubjective morality. For Celikates (2016), such action involves not only acting in accordance with one's conscience but also the willingness to bear the consequences and dialogue with others about such convictions. This communicative dimension is present, albeit in a different way, in both civil disobedience and conscientious objection. While civil disobedience has an essentially political character and aims to provoke reforms, conscientious objection, although it may have political implications, focuses on preserving the moral integrity of the individual.

Unlike public protests with reformist pretensions, objection is directed at preserving the coherence between personal beliefs and mandatory behaviors imposed by the state. Leigh (2023) highlighted that conscience operates as an instance of moral judgment, guiding conduct according to convictions that are part of the subject's identity core. When a state imposition threatens this core, the individual may experience a violation of his moral integrity, which justifies, under certain conditions, the legitimate refusal to fulfill the obligation. However, it is necessary to distinguish such objections from generic allegations based on passing preferences or unfounded fears unrelated to structuring moral commitments.

According to Davis (2015), both practices are modes of expression aimed at communicating values to a specific audience through different ways and objectives. The philosophical literature on the subject reveals a relevant divergence. Some authors defend the social value of the disobedience of conscience as a promoter of public deliberations and instruments for denouncing injustices (Repolês, 2003). Others, however, warn of the risks associated with the breach of legality, proposing mitigated forms of response such as lenient penalties, legal accommodations, and institutional measures of tolerance. Thus, the conceptual analysis of civil disobedience and conscientious objection is an indispensable starting point for understanding the resistance to vaccination against COVID-19. It is precisely this theoretical basis that will allow the investigation of the limits and possibilities of these manifestations in the context of the Democratic Rule of Law and public policies of collective health.

From a constitutional point of view, the tension between freedom of conscience and collective demand is not resolved by the simple prevalence of one value over the other. Despite being marked by successive reforms and criticisms of its normative cohesion (Medeiros; Feitosa, 2023), the Brazilian Constitution of 1988 still maintains human dignity, individual freedom, and solidarity as pillars. This triad imposes a model of interpretation that rejects sanitary authoritarianism and absolute individualism. According to De Cicco (2024), the rights and duties of solidarity are inseparable, and quality of life must be perceived not only in individual terms but also at the collective level. Democracy, therefore, requires a dynamic balance between autonomy and social cohesion.

3 Civil disobedience and the right to contest mandatory public policies

Civil disobedience has been used throughout history as a means of resistance and struggle against social and political injustices. Classically defined by Henry David Thoreau and widely discussed by theorists such as John Rawls, civil disobedience is characterized as a public, non-violent, and conscious act that aims to bring about changes in unjust government laws or policies. It is a restricted and communicative protest, contrary to the law, that people carry out to support a change in governmental or non-governmental practices (Weinstock, 2016).

The restricted nature of civil disobedience is usually understood in terms of non-violence, although not universally. Civil disobedience is associated with a tactical repertoire of typically nonviolent acts that include, but are not limited to, occupations,

trespassing, blockades, lockdowns, handing out banners, illegal street theater, and solidarity in prison. Acts of civil disobedience can be direct or indirect. In other words, they may involve a direct refusal to conform to the law that is the immediate object of the protest or a refusal to conform to non-contentious laws as a means of indirectly expressing opposition to the object of the protest (Alves, 2015).

Some thinkers believe that civil disobedience can only target government agencies and practices. However, this provided an unrestricted picture of their targets. Generally, dissidents direct their civil disobedience against public authorities who have the ability to enact collective decisions through laws, policies, or directives at the local, national, or transnational levels. However, dissidents can also engage in civil disobedience against non-governmental actors such as universities, corporations, and churches, whose legal (or illegal) practices they oppose. Of course, these protests are often also intended to criticize the legal framework that condones such practices (Brownlee, 2013, 2007).

The claim that civil disobedience is a communicative form of protest is widely accepted in philosophical literature. Milligan (2013) observes that most commentators affirm what he calls the "communication thesis," which holds that civil disobedience should be understood mainly as a form of addressing or appealing. Several thinkers, such as Rawls (1999), Singer (1973), Bedau (1991), Habermas (1985), and Arendt (2004), conceptualize civil disobedience as a means of articulating arguments of opposition in the public sphere.

According to Rawls (1999), civil disobedience is characterized as a morally justified protest that goes beyond merely private convictions and individual interests. It is a public act, usually announced in advance, subject to the control of authorities during its realization. It consists of the deliberate violation of specific legal norms without denying the legitimacy of the rule of law as a whole. It involves the willingness to accept the legal sanctions resulting from this violation and, due to its symbolic nature, is restricted, as a rule, to nonviolent means of demonstration.

However, the thesis on communication is universally accepted. Milligan (2013) notes that this thesis can lead to what he describes as "the question of exclusions," which arises to the extent that our conceptual framework leads us to deny that certain forms of principled activism should be treated as civilly disobedient. It considers forms of activism in which the primary goal is to stop or prevent contentious practice, rather than to communicate opposition to that practice in the public sphere. For example, radical environmental activists sometimes target contested development projects, secretly sabotage machines, or impose other forms of costs on developers. However, if we insist on limiting civil disobedience to overtly

communicative forms of protest, it can be difficult to categorize such activism as civilly disobedient (Welchman, 2001).

Even so, the communicational perspective maintains considerable appeal for the conceptual specification of civil disobedience. First, it is compatible with themes explored in the writings of prominent figures in the tradition of civil disobedience. Gandhi and Martin Luther King, for example, advocate civil disobedience as a means of reaching out to one's opponent to provoke dialogue and seek reconciliation of perspectives. Gandhi's perspective insists that civilly disobedient agents must adopt a dialogical orientation toward their opponents, so that the adversary is treated as worthy of being heard, as another person or group of people with a viewpoint that, while different from their own, is not inferior by virtue of being different (Luke, 2014).

King (1991, p. 71) maintained that the role of civil disobedience is "to create such a crisis and establish such creative tension that a community that has constantly refused to negotiate is forced to confront the issue." Certainly, there is some doubt about the extent to which Gandhi and King take a consistent stance in their writings, as both flirt with the idea of disruptive protests as a communicative rather than a communicative strategy. Nevertheless, the prominent place of communicative intent in his writings attests to its historical and practical relevance in civil disobedience.

Second, the thesis of communication recognizes that certain forms of principled protests and resistance are necessarily excluded from the category of civil disobedience. This is because it is necessary to account for the civility of this practice, which allows us to contrast it with other forms of principle disobedience. Civility may be associated with the conscientious motivations of its practitioners, particularly their goal of publicizing the reasons for their protest to persuade the relevant public to accept their position (King, 1991).

The goal of reaching an audience in this way imposes certain restrictions on the conduct of civil disobedients because overly violent or forceful forms of expression can frustrate efforts to bring about lasting changes in law or social practices. The disobedient civilians have reason to at least try to persuade others of the merits of their views, instead of achieving change by force, partly because the strength of its message can be lost if it is drowned out by aggressive tactics and partly because its appeal rests on treating recipients as interlocutors with whom reasoned discussion is possible. The case of militant resistance that goes beyond the constraints associated with civility may be more convincing if persuasion through dialogue seems or proves impossible (Rawls, 1999).

Third, the range of activities compatible with communicative intentions is broad. In fact, the thesis of communication helps to make sense of the widespread disagreement in the philosophical literature about what particular restraints on conduct should be associated with civil disobedience, including publicity, nonviolence, appeal to public political principles, fidelity to the law, and willingness to accept punishment (Rawls, 1999).

Consider, for example, the widely debated definition proposed by Rawls (1999, p. 320), according to which civil disobedience is "a public, non-violent, conscientious act, but of a political nature, contrary to the law, usually carried out with the aim of promoting a change in legislation or government policies." The author adds additional requirements, stating that civil disobedients must properly notify their protests, restrict their appeal to public political principles, and avoid coercive or intimidatory tactics aimed at forcing public authorities.

One way to make sense of Rawls' (1999) position is that the constraints reflect a certain conception of how civil disobedience functions as an appeal in the special circumstances of a "quasi-just society." In a society in which the majority is committed to justice and open to the possibility that their decisions reflect or strengthen injustice, it makes sense to limit civil disobedience to tactics that boost credentials as a respectful appeal to that majority. In this context, it is held that civil disobedience should be nonviolent because "engaging in violent acts likely to hurt and injure is incompatible with civil disobedience as a form of address" (Rawls, 1999, p. 321). In other words, violence does not respect the civil liberties of the public and thus obscures the clarity and strength of any appeal to their sense of justice.

Peter Singer (1973) focuses on a different issue when he challenges Rawls' (1999) claim that civil disobedience must embody an appeal to public political principles, insisting on this condition because it fits well with his account of civil disobedience as a "stabilizing device," which functions to publicize particularly serious deviations from society's prevailing conception of justice. Singer argues that this condition is inappropriate in societies that lack an established conception of justice or possess a conception that fails to address the important issues of moral concern. Therefore, it offers a broader conception of civil disobedience as a call for a democratic majority to reconsider its decisions, which allows protesters to draw on a potentially wide range of ethical ideas in defence of their goals and conduct.

In addition, according to Bickel (1975), civil disobedience can be understood as the refusal to obey formally mandatory general legislation motivated by moral or political principles, without necessarily implying a challenge to the validity of the norm. It may also involve the incidental transgression of these laws during protests that seek to promote changes

in public policies or social conditions that are considered morally or politically inappropriate, even if such acts occur in a legal context that does not admit disobedience.

Another important doctrinal foundation is provided by Arendt (2004), who observes that the justification of conscience faces two obstacles: its subjective nature, which prevents generalization, and the assumption that everyone possesses and exercises the innate ability to discern right from wrong, which, in practice, does not always occur. Despite its historical importance and transformative potential, civil disobedience is not without criticism and objections, which must be considered for a balanced and comprehensive understanding of this practice.

Regarding legal support, several legal and doctrinal frameworks justify its practice as a legitimate form of resistance. One of the main foundations is the right to resistance, which is recognized in several constitutions and declarations of human rights. Article 21 of the Universal Declaration of Human Rights guarantees the right to democratic participation, which includes resistance to tyrannical or unjust governments.

In the Brazilian legal system, the Federal Constitution (Brasil, 1988) ensures that in Article 5, item IV, the free expression of thought and anonymity is prohibited. This principle can be interpreted as an implicit recognition of civil disobedience, since this practice is, by definition, a form of public and non-anonymous manifestation against laws or policies considered unjust. In addition, Article 5, item XVI of the Constitutional Diploma guarantees the right to peaceful assembly, without weapons, in places open to the public, as long as it does not frustrate another meeting previously called for the same place, which can also be seen as legal support for civil disobedience (Brasil, 1988).

Civil disobedience, when anchored in deep moral convictions and clearly communicated to a relevant audience, transcends mere legal noncompliance and begins to perform a pedagogical and political function in a democratic context (Della Croce; Nicole-Berva, 2023). Therefore, the requirements of publicity and non-violence are directly related to the legitimacy of conduct in the public sphere. This is evident in protests whose purpose is not disorder but the argumentative denunciation of an unjust practice, as illustrated in demonstrations against compulsory health policies. Consequently, the recognition of these acts as civil disobedience depends on their communicative potential and the ethical commitment underlying the legal transgression, elements that differentiate them from illegal actions or actions driven by individual interests.

The practice of civil disobedience, especially in public health contexts, is revealed as a legitimate attempt to preserve the coherence between individual conscience and moral action,

including on the part of health professionals who refuse to act under unsafe conditions, in the name of the principle of non-infection (Della Croce; Nicole-Berva, 2023). These acts, although contrary to current institutional norms, can be understood as efforts to safeguard the ethical integrity of professionals and the safety of patients, thus constituting an exercise of responsible contestation. The duty of sanitary containment, which imposes limits on circulation and contact, applies to all citizens, including those who resist, based on ethical values, requiring proportionate and reasoned responses from the state.

The characterization of civil disobedience as a legitimate means of contestation is not limited to the violation of norms per se, but to the deliberate intention to provoke public debate and appeal to a collective sense of justice (Alamy, 2023). This means that even in the face of mandatory policies, such as compulsory vaccination, there is room for legitimate forms of resistance, as long as the requirements of civility and ethical appeal are observed. Public, conscious, and argumentative refusal, such as that of citizens who state their moral objection to vaccination, cannot automatically be confused with denialism or misinformation. In contrast, it must be understood within the framework of the right to dissent, which is a condition for the vitality of the Democratic Rule of Law.

The tension between individual freedoms and collective duties reaches its apex in mandatory vaccination policies, where the right to bodily integrity and the imperative to protect public health are confronted. Although a state imposition can be legally supported, especially in health emergency situations, its exercise must be accompanied by material and legal guarantees that make the obligation proportional and equitable (Wilson & Rudge, 2023). Compensation programs for adverse effects and mechanisms for universal access to the vaccine are examples of measures that contribute to the legitimization of coercive policy, balancing interests at stake, and reducing resistance motivated by insecurities and social inequalities.

Finally, vaccine hesitancy, which is often attributed to misinformation, has complex and contextual roots. Factors such as inequality of access to information, history of institutional negligence, and absence of transparent dialogue contribute to the formation of morally founded resistance (Wilson & Rudge, 2023). Thus, confronting vaccine objection through coercion, without considering the ethical foundations that support it, tends to deepen distrust and compromise the effectiveness of public policy. On the other hand, active listening and respect for manifestations of conscience can open up space for more participatory policies that are sensitive to the plurality of values present in democratic societies. As can be seen, there are several concepts of civil disobedience, and their application can be carried out through

different actions in society. Next, this concept is related to conscientious objection, for a better understanding of the relationship between civil disobedience and the act of denial of Covid-19 vaccination.

4 Conscientious objection as an individual right

A conscientious objection is the act of not conforming to a directive or legal order for reasons of personal morality. In a nuanced way, conscientious objection - as an act of objection - is also a communicative act of disobedience, in which the person practices to disassociate himself from actions that are incompatible with his moral convictions as he understands them. This differs from uncommunicated disagreement or purely evasive disobedience (Pieroth & Schlink, 2019). It is associated with actions such as citizens refusing to serve in the military or in military conflict, medical professionals refusing to provide certain forms of treatment or service, civil servants refusing to fulfill certain obligations, and individuals refusing to participate in a mass vaccination. It can also take the form not of refusing to act but of a defiant attitude, such as a doctor defiantly providing a medical service that she has been instructed to deny (Streck and Morbach, 2019).

Conscientious objections differ from civil disobedience in several respects. First, because it is not necessarily an unlawful act, it implies non-compliance with an injunction, directive, or norm without law. Second, it can only be performed directly against the dictate that the objector opposes. Third, most importantly, conscientious objection, unlike civil disobedience, is not necessarily carried out as a means of protesting or reforming the practice that the objector opposes, although, as will be discussed, it may implicitly or explicitly raise the issue of exemption (Born, 2014).

The claim that conscientious objection is a communicative act is much less widely accepted in philosophical literature than civil disobedience is a communicative act. This may reflect the fact that conscientious objection is often defined as an act that, in a sense, is not public in its aims or conduct; that is, it is not performed in public; it is not done with due notification to society and its authorities, nor with the objective of drawing the public's attention (Diniz, 2014).

Raz (1979, p. 276), for example, writes that "conscientious objection is a private act, intended to protect the agent from interference by public authority" and to assert "immunity from public interference in matters that he considers private to him". That said, the

communicative dimensions of conscientious objection can be unfolded by reflecting on the difficulties of this definition, particularly the assertion that it is a "private" act.

First, it is a mistake to conceptualize conscientious objection as private in the sense that it is carried out evasively or clandestinely. Unlike the related notion of conscientious evasion, conscientious objection is carried out by agents on the assumption that public authorities are aware (or may come to know) of their non-compliance (Moraro, 2014). Second, it is misleading to think of conscientious objection as something private, in the sense of a purely private conviction that conflicts with laws, requirements, or social norms. Of course, there is an important sense in which conscientious objection places an individual in a relationship of opposition to dominant views, but this should not obscure the fact that their convictions have been forged in dialogue with others (Moraro, 2014). Third, it is a mistake to think of conscientious objection as something private in the sense that it has no aspirations to have an impact on broader legal or social arrangements. The temptation to think this way arises because conscientious objectors often do not offer a direct challenge to a contentious law or practice but seek to avoid the personal implications of conformity. For example, a registrar who refuses to officiate at a same-sex marriage does not challenge legislation permitting such unions if his purpose is merely to obtain permission not to be a participant in a ceremony that he or she conscientiously opposes (Moraro, 2014).

The result of these considerations is that conscientious objection, unlike conscientious evasion or other forms of personal disobedience, has a constitutive communicative dimension. However, there may be some uncertainty as to why an agent prefers to communicate his or her convictions through conscientious objection, rather than civil disobedience. This is particularly relevant if we are inclined to think that conscientious conviction is best served through conduct that not only disassociates an agent from perceived transgression but also articulates a direct or indirect challenge to perceived transgression itself.

Conscientious objections, especially in the context of compulsory vaccination, cannot be equated with a simple expression of personal opinions or an unfounded act of resistance. As Leigh (2023) observes, failure to comply with vaccination for reasons of conscience represents a form of moral expression deeply rooted in an individual's identity, requiring legal protection different from that granted to generic autonomy. It is a clash between internalized moral convictions and public policies that, although aimed at promoting collective health, must consider the moral integrity of each citizen. Thus, the recognition of conscientious objection does not imply despising social welfare but incorporating it in a way that is compatible with fundamental rights.

It is necessary to distinguish legitimate conscientious objections from behaviors derived from vaccine hesitancy or exacerbated subjective feelings. Leigh (2023) warns of the risk of trivializing conscientious objection, arguing that only claims that are morally coherent and consistent with an individual's belief history deserve legal deference. By equating resistance to vaccination with conscientious objection, there is a risk of weakening the mechanisms for the protection of fundamental rights and compromising the legitimacy of the institute. The role of the state, therefore, is to operate a proportional judgment that guarantees a balance between the protection of public health and the preservation of individual conscience.

In addition, the proportionality of health measures must be analyzed in light of their impact on the moral integrity of citizens. Leigh (2023) emphasizes that even in health emergency scenarios, the imposition of conduct can violate the core identity of those who act according to personal ethical convictions. This is evidenced, for example, in the difficulty of certain individuals in submitting to compulsory vaccination, not because of misinformation but because of incompatibility with their understanding of the good and the just. Ignoring this reality compromises the principle of human dignity and can produce effects contrary to those of voluntary adherence to public health policies.

Another aspect to consider is the communicative role of conscientious objection, even when it is not covered with the typical publicity of civil disobedience. Although acts of objection do not necessarily aim to transform the norm, they contain an implicit discursive dimension by revealing a conflict between legal duties and personal convictions. According to Alamy (2023), conscientious objection brings to light the clash between the individual and the collectivity, without this meaning an attack on order. The essence of this right lies in respectful dissent and demand for exemptions compatible with democratic pluralism.

5 Civil disobedience in the covid-19 pandemic

According to the WHO, mass vaccination prevents at least 240 deaths per hour worldwide and saves R\$ 250 million per day. Such calculations include vaccination to prevent diphtheria, measles, pertussis, polio, and others (Croda and Garcia, 2020). In the same vein, the emeritus researcher at the Oswaldo Cruz Foundation (Fiocruz), Akira Homma, argues that vaccines and the mass vaccination process prevent diseases and increase the quality of life (Guimarães, 2022). In this context of proven efficacy, Wilson and Rudge (2023) recognize the unquestionable efficacy of vaccination as a public health strategy, but note that, despite its broad benefits, the topic has always been accompanied by a certain degree of controversy.

The tension between the demonstrated collective benefits and individual resistance reflects a paradox typical of democratic societies, where apparently conflicting fundamental rights coexist. This historical controversy takes on new contours during health emergencies when decisions on public health policies need to balance scientific evidence with fundamental democratic values, including freedom of conscience and the bodily autonomy of citizens.

Thus, in addition to civil disobedience, anti-vaccine discourse, and aversion to mask use, the promotion of miracle remedies is a set of denialist actions. The anti-vaccine movement has been present since the beginning of the 20th century, when immunization campaigns faced opposition from some sectors of the population, as in the case of the Vaccine Revolt in 1904 in Rio de Janeiro. On that occasion, there were protests against the mandatory vaccination laws and services provided by health agents (Sevcenko, 2010). Currently, due to the uncertainty generated by the development of Covid-19 vaccines, the denial of vaccination only worsens (Badiou, 2020).

Brazilian historical experience reveals that, at certain times in the past, forced vaccination was used as a state measure, as demonstrated by Alamy (2023), revealing a pattern of tension between health authorities and popular resistance that transcends specific times. The pandemic scenario has highlighted the reconfiguration of social and political tensions, especially due to the influence of social networks, which have been used to disseminate disinformation and manipulate electoral propaganda, directly affecting democratic processes, as pointed out by Medeiros and Feitosa (2023). This phenomenon illustrates how civil disobedience intertwines with the broader issues of information, democracy, and institutional trust, creating unprecedented challenges for public health policymaking in hyperconnected societies.

In view of this scenario, the Chamber of Deputies created Bill 5040/20, which provides that the person who refuses to take the vaccine against Covid-19 would have the same penalties as those who do not vote and do not justify the Electoral Court; however, the project is being processed and has not been approved so far. The legislative proposal reflects the complexity of the problem, as Alamy (2023, p. 1315) asks: "can the freedom to disagree with the laws prevailing over the security of the collectivity? This is the big issue discussed." This question reveals the core of the democratic dilemma during the pandemic in which it seeks to reconcile individual rights with collective responsibilities. The punitive approach, however, can be questioned in light of the foundations of conscientious objection, especially when Leigh (2023) argues that it is possible to reconcile the protection of public health with respect to the beliefs of minorities without having to establish an exclusionary choice between these

two values. The challenge lies in developing institutional mechanisms that are capable of accommodating genuine convictions without compromising essential health objectives.

In the Brazilian context of the pandemic, the classic conceptualization of civil disobedience encounters new challenges when applied to health issues. Della Croce and Nicole-Berva (2023) argue that the legitimacy of civil disobedience, especially in contexts of health emergency, should be evaluated based on proportionality, so that it is not justified when there is exposure of third parties to excessive risks or negative impacts. The authors recognize that the proportionality between the means of protest and the damage caused is a central criterion for assessing the morality of civil disobedience during a pandemic. This approach suggests that the legitimacy of resistance to health measures should be assessed not only by the sincerity of beliefs but also by the potential impact on vulnerable third parties.

Indeed, actions that respect the principles of non-violence, transparency, and the search for dialogue are more likely to be seen as morally justified and politically effective. Despite its historical importance and transformative potential, civil disobedience is not exempt from criticism and objections, gaining special prominence during the Covid-19 pandemic – This must be considered for a balanced and comprehensive understanding of this practice. Thus, an attempt to justify civil disobedience must rely on a series of objections that can be raised against this practice. It is necessary to consider the harmful consequences of civil disobedience in relation to civic friendship in a democratic society.

One of the main objectives is the potential threat to public order. Civil disobedience by violating laws can cause social unrest and negatively impact the peace and security of society. Another significant objection concerns its impact on third parties. This is because it is uncontroversial whether civil disobedience can impose burdens and inconveniences on individuals who are not directly involved in the protest. This type of impact can generate resentment and opposition to the cause championed by disobedient civilians, weakening popular support, and potentially exacerbating social divisions.

In addition to moral objections to vaccination, it is necessary to consider the social effects of noncompliance with health regulations. This concern with damage to third parties acquires particular relevance when De Cicco (2024) proposes that the violation of collective duties during pandemics can constitute "social damage," subject to compensation in itself, given its ability to compromise solidarity and public well-being. The author argues that even without specific material damage, antisocial behavior that denies preventive measures compromises the civilizing pact that sustains public health.

Political polarization cannot be ignored. By directly challenging established authorities and laws, civil disobedience can exacerbate polarization within society, and it is undisputed that, in contexts of high polarization, acts of civil disobedience can be seen as provocative and divisive, hindering dialogue and cooperation between different political and social groups. This polarizing effect can undermine social cohesion and make it difficult to find solutions to problems faced. These negative impacts may reinforce the view that civil disobedience should be rejected in favor of legal modes of defense based on the assumption (albeit controversial) that legal forms of defense are likely to be less divisive or harmful than illegal forms of defense.

6 Final considerations

The present investigation sought to reflect on the categories of civil disobedience and conscientious objection applied to the context of refusal to vaccinate against COVID-19, situating such behaviors within the legal and political framework of the Democratic Rule of Law. From the theoretical and normative analyses, it was possible to identify that these forms of resistance cannot be understood in a homogeneous or automatic way as violations of the legal system. Instead, they require a contextual and argumentative analysis that takes into account the ethical basis of the action, the coherence of the conviction invoked, and its impact on collective rights. Civil disobedience is distinguished by its public, communicative, and non-violent dimensions, whereas conscientious objection requires justification based on consolidated moral or religious convictions. Both emphasize the necessary reconciliation between individual freedom and the collective duties of solidarity, especially in situations of health emergencies.

The contributions of this study focus on offering a conceptual systematization that allows for the legal differentiation of cases of legitimate resistance to public health policies from those anchored by misinformation, private interests, or political opportunism. The work also aims to collaborate with the debate on the ethical and constitutional limits of state action in pandemic contexts, proposing a critical approach to the mandatory nature of vaccination and the legitimacy of conduct that refuses to comply with it. By articulating philosophical, political, and legal foundations, this article proposes a starting point for the construction of normative criteria that respect both fundamental freedom and the protection of collectivity. The balancing of rights must observe the principles of reasonableness, proportionality, and

prohibition of arbitration—indispensable elements for the preservation of the constitutional and democratic order.

Despite the results achieved, the research has limitations related to the absence of empirical data that allow a more concrete evaluation of the practical application of the categories studied. The analysis focused on a theoretical approach based on doctrine and specialized literature, which restricts the identification of real patterns of judicialization or public policies effectively shaped by conscientious objections or acts of civil disobedience. It also recognizes the limitations of research regarding cultural and normative variability between legal systems, which prevents absolute generalizations about the validity of these arguments in different constitutional contexts.

For future research, it is recommended to deepen empirical research through the analysis of judicial decisions that have faced cases of refusal to vaccinate based on conscientious objection or civil disobedience. Additionally, it would be relevant to investigate how this theme has been addressed in other countries with consolidated democratic models. Another promising path is at the intersection with studies of bioethics and the sociology of law, aiming to understand how individual convictions and collective values are processed in the public and private spheres in the face of health crises. Finally, it is desirable that future studies explore the pedagogical and deliberative dimensions of civil disobedience in democratic strengthening by examining its effects both legally and institutionally.

Finally, the results point to the need to formulate public health policies that incorporate institutional channels of listening and deliberation aimed at the reasoned analysis of conscientious objections and acts of civil disobedience in their normative design. This includes the provision of specific administrative procedures for the formal recognition of conscientious objection in vaccination campaigns, with objective criteria for evaluating the sincerity, consistency, and reasonableness of the alleged convictions, avoiding both state arbitrariness and trivialization of the institute. Likewise, it is recommended that clear legal guidelines be created that guide public authorities in distinguishing between legitimate resistance and antisocial or uninformed conduct, especially in the context of a health crisis. The implementation of interdisciplinary instances, such as ethics committees, public ombudsmen's offices, or deliberative forums, can contribute to more participatory, transparent, and compatible decisions with democratic principles, favoring a balance between individual autonomy and collective responsibility.

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