

Must we always obey the law?

The importance of law in a modern, democratic society can not be overstated. Laws ensure a fair society where under the rule of law everyone is responsible for their actions and victims of wrongdoings can pursue justice through the legal system. By enforcing what is deemed unacceptable, laws act as the principal guide of how civilisation should or should not function. Laws maintain peace and aspire to mitigate conflict between various social groups, as well as protect the most vulnerable in society. Despite the extensive benefits of the law, it could be seen as idealistic to always obey the law. Firstly, lawmakers can be prejudiced, creating laws that marginalise minority groups or laws that prioritise their selfish desires rather than functionality. Secondly, there are circumstances where a conflict between morality and the law can arise, where people are prevented from doing what they deem acceptable and necessary due to fear of legal repercussions. This essay will inquire into when it could be considered appropriate to disobey the law, taking into account two arguments 1) the fallible nature of lawmakers, and 2) morality and the law.

Lawmakers are not perfect

In western society, views on laws and more generally authority have shifted over time. Throughout the Middle Ages, a commonly held belief in England was in the religious doctrine of the Divine Right of Kings which emphasised the legitimacy of monarchs to create and enforce laws, suggesting that God appointed them to do so. However, as religious attitudes changed, so did the position of power in society from the monarch to an elected parliament. From a modern perspective those that have the power to enact legislation are fallible and can make mistakes (Matthias, 2020)¹, due to this legislation could be prejudiced,

¹ Daily Philosophy, available at. <https://daily-philosophy.com/can-it-be-right-to-break-the-law/> [accessed 13 January 2023]

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unjust and perhaps better not followed. Conversely, some may argue that it is inappropriate to choose to obey some laws whilst abandoning one's social duty to obey the other laws. However, it is important to make a distinction between the two groupings of just and unjust laws. Thomas Aquinas stated, "Any law that uplifts human personality is just. Any law that degrades human personality is unjust". It is on the basis of that statement, I present this argument.

Reflecting on history, lawmakers do not always have the interests of all social groups in mind when creating laws. One of the most openly prejudiced and intolerant states of all time, Nazi Germany, exemplifies the reality that laws do not always pursue the common good. Antisemitism and the persecution of Jews were central tenets of the Nazi ideology (Museum, n.d.)², this was reflected in unjust legislation such as the Nuremberg laws, which restricted what would now be considered, under the Human Rights Act, universal rights, such as the right to freedom of religion. In circumstances such as this, where oppressive laws encroach on a person's religious freedoms, it may be deemed appropriate, at least by society, for a person of faith to disobey the law, not only because the law is overtly prejudiced but also because it is unrealistic to expect someone to betray their faith to follow state law.

In the UK, however, acts are put in place to limit lawmakers' unconscious biases from negatively affecting certain social groups. The Equality Act and more specifically the 'Public sector equality duty' ensures that lawmakers consider the impacts policies will have on equality and the rate of discrimination in the country (Justice, 2012)³. Furthermore, the act aims to increase the transparency and accountability of law-making bodies requiring public

² United States Holocaust Memorial Museum, available at [Antisemitic Legislation 1933–1939 | Holocaust Encyclopedia \(ushmm.org\)](https://www.ushmm.org/learn/antisemitism/legislation/1933-1939) [accessed January 13 2023]

³ Ministry of Justice, available at [Public sector equality duty - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/legislation/public-sector-equality-duty) [accessed January 13 2023]

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authorities to publish equality objectives every four years as well as disclose information showing their compliance with equality laws (Justice, 2012)⁴. Despite advances in the last few decades to reduce prejudice and discrimination within the legal system, there is still a fundamental problem with bias in both enforcing and creating legislation, with 7.5 stop and searches for every 1,000 White people, compared with 52.6 for every 1,000 Black people in the year ending March 2020 (Gov.uk, 2021)⁵. Whilst this does not explicitly provide a reason for not obeying the law presently, it does show that even in a diverse and democratic state, authorities can be biased, and these biases can work their way into the law; biases can erode people's faith in the law, especially the faith of those the law may discriminate against. These people may not see a reason to obey the law, as the law does not protect them or recognise their individuality.

It could therefore be argued that one does not always have to obey the law, and it is unrealistic to expect people to follow laws that could be seen as prejudiced against their faith, race, or culture. At the very least it is reasonable to suggest that citizens should scrutinise legislation and call lawmakers to account if they neglect the needs or freedoms of certain social groups.

Morality and the law

Law and morality whilst being closely linked, are not the same thing. Laws are created by the state to enforce an 'acceptable' and an 'unacceptable' way of doing things. Morals, on the other hand, are more nebulous; they are values and norms created by society. Despite the

⁴ Ministry of Justice, available at [Public sector equality duty - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/public-sector-equality-duty-2012) [accessed January 13 2023]

⁵ Gov.UK, available at [Stop and search data and the effect of geographical differences - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/stop-and-search-data-and-the-effect-of-geographical-differences) [accessed January 13 2023]

sanctions that one is penalized with when breaking a law, some may feel required to break laws to abide by moral conventions.

When analysing the power morals have over people and their ability to face the punishment for breaking the law, it is first important to understand what gives laws power. Thomas Hilbink professor at the University of Massachusetts suggests that “The power to compel obedience is derived from the power to make people believe in the legitimacy of the law” (Hilbink, 2007)⁶. If a law aligns with a person’s sense of morality, naturally they are much more likely to recognise that law as legitimate and more likely to feel obligated to follow it. Of course, it is important to note that people perceive the law as legitimate for various other reasons, such as its role in the general protection of civil rights, as well as the fact laws are backed up by a punitive system for those that disobey them. Laws that are deemed by citizens as legitimate can be so compelling to the point they may act against their own best interests (Hilbink, 2007)⁷.

Although the legitimacy of laws can be strengthened by people’s intrinsic moral code, this is only the case when the law does not intrude on said moral code. In a study on obedience, 18% of people disagreed with the statement, “People should obey the law even if it goes against what they think is right” (Hilbink, 2007)⁸. This empirical evidence shows that about 1/5 of the population does not feel as though they must always follow the law. Perhaps one of the most notorious cases of when morals and the law came into conflict was in the 1950s and 1960s America. As the African-American population grew and social attitudes changed to be more tolerant of Black people, people lost faith in the rigidity of the law and started

⁶ The Power of Legitimacy in Obedience to the Law, available at [Microsoft Word - Paper1.doc \(umass.edu\)](#) [accessed January 14 2023]

⁷ Ibid

⁸ The Power of Legitimacy in Obedience to the Law, available at [Microsoft Word - Paper1.doc \(umass.edu\)](#) [accessed January 14 2023]

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demonstrating against the grave injustices of the system. As society started to focus on morals such as 'treating people fairly' the American legal system maintained laws which treated Black people as though they were second-class citizens. Consequently, illegal marches were held, and acts of mass disobedience run rife. Those incredulous about the impacts morals have on whether people obey the law may argue that the reason people disobeyed the law was that they had lost faith in those that enforced it- the police officers. Whilst distrust in the police had a big impact on why so many were willing to disobey the law during the civil rights movement, Martin Luther King Jr one of the most prominent civil rights activists of all time went as far as to say that "one has a moral responsibility to disobey unjust laws" (institute, 2021)⁹ emphasising the role morality has when deciding whether to obey the law.

To conclude, whilst always obeying the law seems at first to be a trivial statement, throughout the history of law, legal theorists have found flaws in the system which expose why some may feel the need to disobey the law. The very nature of lawmakers means that unconscious bias can hinder the fair and representative function of the law, it is unrealistic to expect those that feel as though they are discriminated against by the legal system to obey the laws that seek to victimize them based on factors such as their race or religion, as Saint Augustine said, "an unjust law is no law at all" (Adams, 2019)¹⁰. Furthermore, by disobeying the law people can reveal failures of the system to keep up with changing social attitudes or demographics and can help to promote positive alterations to legislation. Perhaps then it could be argued that we must not always obey the law, and at times in which

⁹ Intercollegiate studies institute, available at [An Unjust Law Is No Law At All: Excerpts from "Letter from Birmingham Jail" - Intercollegiate Studies Institute \(isi.org\)](https://www.isi.org/letter-from-birmingham-jail) [accessed January 13 2023]

¹⁰ The Stanford Encyclopaedia of Philosophy, available at [Author and Citation Information for "Legal Positivism" \(stanford.edu\)](https://plato.stanford.edu/entries/legal-positivism/) [accessed January 13 2023]

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people are being discriminated against or ignored by legislation, or at times in which the law seems to deviate from our moral values, disobeying the law may be necessary. However, critics would suggest that to disobey the law is to be an anarchist and that one cannot disregard a law simply because one believes it ought not to be a law (Hart, 1958)¹¹. In any case, there appears to be a constant need for laws to be re-evaluated and improved to make people feel better represented and protected so that in turn, they are less likely to feel the need to disobey the law.

¹¹ Harvard Law Review, available at [Positivism and the Separation of Law and Morals on JSTOR](#) [accessed 14 January 2023]

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