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## Why do we have the duty to obey the law

### Part I: Introduction

Lefkowitz has written several articles to discuss why we have the duty to obey the law. I agree with his idea and in this paper, I would like to explain why, in my opinion, we should have the duty to obey the law, and I will discuss some of the possible counterarguments to my discussion. However, before I formally discuss this issue, I think it is necessary for me to sort out the origin of the law first, which will not only help to give readers a clearer background but also help me to conduct subsequent discussions.

### Part II: The Origin Of The Law

Human beings have established the simplest social structure before the emergence of law; although this kind of society cannot be called a country, and its scale may be very small, to maintain the stability and development of this community, there must be a complete set of rules. Whoever breaks these rules will be ostracized and punished by the entire society. These rules are moral standards, and society as a whole operates on the observance of ethical standards.

With the continuous expansion of the early society, the rules also continued to increase, and finally, the most primitive law was formed in the process of supplementing and perfecting the established moral

standards. And the laws of most early civilizations and nations were heavily influenced by established moral standards. For example, in ancient Egypt, laws were created to regulate society and to ensure order, and these laws were known as the "MA 'at," which were a set of ethical principles that guided both the rulers and the people; in ancient Greece, the philosopher Aristotle was one of the first to study and write about law. His works, such as "Politics" and "Ethics," explored the nature of justice and the role of law in society; in China, the legal system developed through the teachings of Confucius and the implementation of the "Legalist" philosophy which are also affected by morality.

Even throughout the Middle Ages, the Church played a significant role in the development of law, particularly in Europe. The Church's Canon Law, which regulated religious matters, had a significant impact on secular law, particularly in the area of marriage and family law. And the Church itself represents a moral standard.

Although in modern times the development of law has been influenced by a range of factors, including social, political, and economic changes, while the rise of nation-states and the development of constitutions, as well as the development of international law have all contributed to the evolution of the modern legal system, we still have to admit that moral standards are still a very important factor in the law.

Now I think it is a good time to start discussing the original question that whether we have a duty to obey the law and why we should obey the law.

### Part III: Why should we have the duty to obey the law?

In Lefkowitz's paper, *The Duty to Obey the Law*, he argues that the duty to obey the law is usually conceived to be general, universal, content-independent, preemptive, categorical, defeasible, and

particular (Lefkowitz 572). I think his point of view is comprehensive enough, but because of the limited length of this paper, I decided to discuss this topic from my point of view only from the aspects of generality, universality, and content-independent.

### Generality and Universality

The generality of law refers to the idea that the law applies equally to all individuals or groups, regardless of their social status, ethnicity, religion, or any other characteristic. In other words, the law is written in such a way that does not discriminate against any particular group or individual. Based on the generality of law, I consider that all people within the legal jurisdictions should not only morally require to obey the law, but also have an obligation to fully obey all laws, which is also known as the universality of law.

These two concepts underlie the principle of the rule of law, which states that the law is supreme and applies equally to all, including those who make it and those who enforce it. The universality of the law ensures that no particular group is accorded special treatment or privileges, which contributes to the promotion of equality and justice in society.

### Content-independent

Content-independence refers to the fact that an agent with a duty to obey the law is morally required to act as the legal rules direct simply because they have the status of law, and not because of the rules' content (Lefkowitz 573). However, Lefkowitz considers that this fact is alleged. I agree with his idea, and I do not think we have the duty to obey the law just because it is law but regardless of its content.

In part two, we learned that law is based on morality, and that it reflects the diversity and

complexity of human experience; therefore, the law should be subject to moral and ethical scrutiny at all times to ensure equality and justice. Furthermore, with the development of society, our moral concepts will also change, so we also need to make certain amendments to the laws to ensure that they promote the common good. The law cannot under any circumstances disregard its content.

#### Part IV: Whether we always have a duty to obey the law?

After discussing these properties of the law, a question that easily comes to mind is whether we should always obey the law. Or are there some circumstances where we should no longer obey the law? My answer is that we should always obey the law, but we should not always obey the current law. If the current law can no longer guarantee fairness and justice, then we have no obligation to continuously obey this law but should reformulate laws that can ensure justice. To get the right to rewrite the law, any means, whether violently or non-violently, should be allowed at this time.

Hence, in my opinion, there are things about my condition or the conditions of my society that, if changed, would make it so that I do not have a duty to obey the law. I think Lefkowitz gives a good explanation in his paper which he defines as the particularity of the duty to obey the law. He mentions that an agent has a duty to obey the particular legal order that claims exclusive or primary jurisdiction over him or her, rather than an alternative existing legal order (Lefkowitz 574). I think the particular legal order for the agent represents that this legal order is the current best choice for him or her, and that is why the agent should have the duty to obey the particular law.

#### Part V: Does the law pursue equality and justice?

Some people have questioned my argument by pointing out that laws may not be made to ensure

fairness and justice. These people give the following explanation for this point of view. In slave countries, the law does not guarantee any fairness and justice to slaves; these slaves are regarded as a commodity or livestock and had no respect and freedom in personality. The law will not protect them. Another example is that in feudal times, the laws of monarchical states often did not treat subjects and nobles equally; the nobles tended to have more privileges. At the same time, the monarch himself does not seem to be restricted by the law, he can amend the law or add new laws as he pleases. Even in modern society, the laws of despotic countries do not seem to be made to maintain fairness and justice. These examples above illustrate that in the real world, the making of laws does not depend on fairness and justice.

First, according to our current moral standards, these laws are unequal, but when the laws were formulated, they were in line with the moral concepts of people at that time. Therefore, we should not simply use the current moral standards to measure past morality. Second, most of these laws have been superseded by completely new laws, and most of these old regimes are no longer used by modern countries. Even though some countries still have kings or queens, those monarchs are now subject to laws. These counterexamples themselves also prove my previous argument that when a law cannot guarantee equality and justice, we no longer have a duty to obey the law, but should use all means to re-establish a qualified law to replace the old one. Through the above discussion, I think the law is pursuing equality and justice.

## Part VI: Conclusion

In general, I think we have a duty to obey the law because the law is made according to our moral standards. Since we must obey our moral standards, we also need to obey the law. But that does not

mean we always have duties to obey the existing laws. When the law deviates from our morality, and thus can no longer guarantee the maintenance of social fairness and justice, we do not have the duty to obey the law anymore.

#### Reference

Lefkowitz, David. "The duty to obey the law." *Philosophy compass* 1.6 (2006): 571-598.