

# Why people obey or do not obey the law

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## Abstract

Underlying the myriad discussions and debates about the rule-of-law, and about law-abidingness, violating the law, law enforcement, law and order, unjust laws, legal obligations, etc., are certain assumptions about what is “the law” and whence it is derived. Addressing these issues at the outset seems not only appropriate, but important, in trying to understand why people obey the law or not. For purposes of this discussion, we will deal mainly with criminal law as the focus.

## Keywords

juvenile law, obligation, society, behavior

The foundation of laws rests on values. All societies and all individuals have certain values, that is those things, those principles, those beliefs and ideas, that are important to them — literally what it is that they value. In some (perhaps most) cases, an individual’s values coincide with their society’s values. But sometimes, as we will see, they do not. In either event, it is the society’s values and the community’s values that ultimately provide the legal foundation for that society’s particular laws. Employing a formalized process, every society seeks to achieve a degree of uniformity and social control among its members by imposing certain rules and regulations, and laws.

From fundamental values are first derived social norms, which represent the lowest level of social control. These are informal, but generally accepted guides to behavior and actions. They are informal in that there are no codified consequences for norm violation, but rather such violations are subject to social disapproval. The range of social norms is very broad, governing for example, the appropriate dress for certain occasions; what are deemed inappropriate words and language; permissible and impermissible sexual behavior; respect for one’s fellows, etc., etc. Social disapproval can come in the form of simple disapproving looks, of certain verbal expressions, and/or of actual chastisement, including ostracism. The most obvious examples of these forms can be seen in the parental disciplining of their children — wherein children begin to learn what is acceptable and unacceptable and how to distinguish right from wrong.

Depending on the importance attached to certain norms, it may be decided to formalize them, i. e., to develop rules to guide specific behaviors and, most importantly, to establish and publicize any sanctions for rule violations. To enhance rule acceptance among those subject to the rules, it is necessary that the rules be made by a rule making body that is generally regarded as being legitimate for that purpose.

To offer a simple example of rules: some years ago, I was employed as a lifeguard at a swimming pool. The pool management made a rule prohibiting running near the pool. This rule was deemed necessary because of the risks of injury and the danger created by running on a hard, wet surface. The rule about no running was prominently displayed in written form near the pool. Along with the prohibition, likewise was posted the sanction for violating the rule, namely not being allowed to swim for some designated period of time. This example illustrates well the role of rules. The rule was necessitated by a potentially dangerous situation and it was promulgated by a legitimate authority. The rule was plainly advertised so all should be aware of it, and likewise, any potential violators were made aware of the consequences for their violation. In this situation, it had been determined that just social disapproval was not sufficient to deter the behavior in question.

As shown by this example, violating the no running rule had a negative consequence, but it did not result in a criminal sanction. There was no law against it! In some cases, however, and again consistent with a particular societal value, a specific action or behavior may be thought to require more than social disapproval and more than just having a rule against it. When a behavior or action is deemed especially harmful or dangerous and maybe widespread, it may be decided that behavior must be outlawed via criminal legislation. When this occurs, law enforcement and the authority of the criminal justice system come into play. That authority legitimately includes the arrest powers of the police, the charge decisions of prosecutors, the role of the courts to determine guilt or innocence, and finally the correctional system to carry out the mandated criminal sentences and punishments.

In each of these instances, whether it be obeying (following) a social norm, or a rule, or the law, the individual's own value system and beliefs come to play a role in determining whether they decide to obey the law or not. A number of scholars have addressed this issue from various perspectives. For example, law professor Lawrence Friedman (2016) argues that there are three main reasons why people obey the law: first, they are deterred by their fear of sanctions. In the case of crimes, these sanctions can include everything from fines to imprisonment. Second, individuals are influenced by their peer group, who may push them either in the direction of obeying the law (a positive influence) or violating it (a negative influence). And third, according to Friedman, people obey the law because it is consistent with and fits with their own conscience and their personal internal values. It is this third reason that is of particular interest here, given the preceding discussion about the derivation of law itself. Law abidingness and its underlying motivations — including values



and morality — have long been the focus of several fields of study, including one known broadly as legal socialization.

## Legal Socialization

Legal socialization encompasses a number of related topics, precursors, and offshoots. These include moral development and moral reasoning theories, legal reasoning, procedural justice, law-related education, and what has been called a culture of lawfulness — all of which address in some way the question of whether and why people obey the law. Needless to say, each of these topics can be addressed here in only summary form. My intent is to give a precis of the current body of knowledge bearing on our overarching research question.

Lawrence Kohlberg (1969) first proposed what he called a theory of moral development. Building on the cognitive development ideas of the psychologist Jean Piaget, Kohlberg argued that there are three levels of moral development through which individuals pass as they mature — preconventional, conventional, and postconventional. Conventional in this case refers to an individual's attitude toward society's conventions or rules. In brief, at the preconventional stage rules are followed because there are authority figures (such as parents and teachers) who will punish violations. Conventional thinkers, whose reasoning is more sophisticated, follow rules because they accept that doing so is in the best interests of the common good. Drivers obey the speed limit and stop at stop signs because it is in everyone's best interests to do so — including their own!

It is the postconventional level that demonstrates the most advanced stage of moral reasoning. Persons at this level, said Kohlberg, are primarily concerned with the moral basis of the social contract and of their obligations to rules and laws. Laws, and the validity of any particular law, are judged based upon conformity with the individual's own ethical principles and the particular law's fit with what they regard as universal principles of justice and fairness. This is where the potential arises for a conflict between societal values and individual values. This level of moral reasoning certainly complicates any questions about simply obeying the law, because it suggests that such postconventional persons may actually feel obligated to violate certain laws with which they have moral disagreement. We will have much more to say about that matter later in this paper. Moral reasoning and development were taken further in considerations of the law in Kohlberg's collaborations with June Tapp (1971), and then with the latter's work with Felice Levine (1974).

Building on Kohlberg's idea of the stages of moral development, Tapp applied this same paradigm to legal reasoning and legal socialization. Defined as the development of values, attitudes, and behaviors toward law, legal socialization "focuses on the individual's standards for making sociolegal judgements and for resolving conflicts, pressing claims, and settling disputes" (Tapp and Levine, 1974:4). Similar to the moral development sequence, legal socialization is also said to progress across three stages. Individuals operating at the first level of the three stages of legal reasoning (preconventional law obeying) are guided by a focus on external consequences and authority. They are afraid of punishment and physical harm, and are thus particularly deferential toward power. This is similar to Friedman's argument that some people obey the law simply because they are afraid of the sanctions for not doing so. This preconventional law deferring stance is especially characteristic of young children, but may also be present in adults as well. A difficulty for law-abidingness at this lower order of reasoning level is that there is an inclination to obey the law only when the authority and the threat of punishment are present. For instance, a child is told by the parent to stay away from the cookie jar, and to ask anytime they want a cookie. When the parent is away or not looking, however, some children have no

qualms about helping themselves to cookies! Doing so means they have no inherent sense of obligation to obey the parent's rule, nor do they recognize any particular harm in what they are doing. This sort of reasoning, when it occurs at the adult level, obviously presents serious challenges for law enforcement and crime control, because it means obeying the law only when the possibility of getting caught is obvious, such as when a police officer is present. Since having the police everywhere all the time is a practical impossibility, even assuming that would be desirable, the challenge to law abidingness is a very serious one.

The next so-called conventional stage of legal reasoning is a kind of law-and-order, conformity stage. People at this level follow the law because they feel obliged to do so — unlike those persons at the earlier level. This is similar to Kohlberg's conventional stage of moral reasoning. Interestingly, here individuals will even obey laws with which they disagree because doing so is the "right thing" to do. In cases of something they may want to do, and would perhaps do under other circumstances, they are instead deterred because whatever it is they are contemplating is simply against the law. An example that comes to mind is from my experience of living for a short time in Frieberg, Germany. On the road near our apartment there were walk/don't walk street crossing signs that operated all the time. We observed that even in the late evening when there was literally no traffic on that road, German citizens nevertheless waited patiently for the sign to change to permit walking. We remarked at the time how different that was when compared, for example, to the U. S. In this case, the Germans waited, not because they were afraid of getting caught, which was extremely unlikely, but rather because they apparently felt obliged to follow the law! This conventional level is, fortunately, the predominant mode of legal reasoning for the majority of all adults. As such, it is the core of a civilized, orderly society that can assume most citizens are law abiding, and that therefore an autocratic, oppressive police state is not required to maintain social control.

The postconventional level of legal reasoning is, as before, similar to the postconventional level of moral reasoning. Tapp and Levine (1974) said that this level is illustrated by "[p]rincipled, thinking individuals [who] ... see the need for social systems and yet can differentiate between the values of a given social order and universal ethics" (p. 22). In other words, there are the values that are represented by the laws of a particular society or country, and then there are the values of individuals living in that society or country, which may differ. In such instances, these latter perhaps highly principled individuals might regard theirs as being the more universal values and principles, and that they are on higher moral ground in any disagreement. This moral disagreement, when it occurs, obviously presents complications for obeying the law. If a citizen of a country has a fundamental disagreement with a law of that country — a disagreement based on ethics and morals — are they nevertheless obliged to obey that law? Or do such principled persons have a moral obligation to violate unjust laws?

Let me offer just a few examples of the kinds of complications that can and have occurred. First, it would be untenable to have a situation wherein every person can decide which laws they will obey and which ones they will not. This would clearly create chaos and a kind of "law of the jungle" atmosphere. There have, however, been instances in which certain people have violated the law because there is a disconnect between their own sense of what is right and wrong and what a particular law may proscribe. A contemporary example of this has been reported in Iran (Fassihi & Nikounazar, 2023). There, the state — the Islamic Republic — and its governing body, have banned the sale and consumption of alcohol. Violations of this ban are punishable by a penalty of up to 80 lashes and fines. But rather than stopping drinking, according to news reports, the ban has led to a flourishing and dangerous bootleg market. According to the news article, "[m]any Iranians love to drink, and nothing has dissuaded them from a tradition deeply rooted in ancient Persian culture." Therefore, homemade alcohol, which has led to an increase in poisonings, hospi-



talizations, and deaths, as well as imported liquor are freely served at parties, weddings and other social gatherings. Some restaurants are even serving vodka in pots of tea. This same thing happened in the United States in the 1920s, during what was known as Prohibition. The federal government at that time was convinced by an influential group of special interests that allowing the drinking of alcohol was immoral and otherwise detrimental to society, and therefore should be made illegal — thus it was prohibited. What happened, however, was that there were other people, large numbers as it turned out, who did not regard drinking alcohol to be immoral or detrimental. Consequently, there was widespread violation of the law. When it became clear that there was this disconnect and that the law was therefore unenforceable, prohibition was repealed. The former Soviet Union had a similar experience with alcohol prohibition in the 1980s under Mikhail Gorbachev. This kind of gulf between what the law proscribes and what a majority of the people believe and want has currently and similarly replicated itself with respect to certain drug laws — marijuana prohibitions for example. There is widespread disagreement with laws that outlaw any marijuana use. There is also the ongoing conflict and debate in the U.S. over abortion, wherein some advocate for a woman's right to choose and for abortion to be legally available, and others want abortion to be outlawed. Whichever way the law goes, in these cases, it can present a misfit between morality and legality. And whenever that occurs, it raises fundamental questions about obeying the law.

Other, even clearer examples of what were regarded as “unjust” laws, include the so-called Jim Crow laws in the United States. Following the Civil War and extending into the 1960s, and targeting former slaves and the descendants of slaves, these laws denied free citizens their basic rights and freedoms simply based on their skin color. At the state and local levels, Jim Crow laws and customs dictated everything from how and in what capacities formerly enslaved people could work, where they could live and travel, how much they could be paid, under what conditions they could vote if at all, and even daily activities such as using drinking fountains and public transportation. Failure to abide by these laws could lead to severe punishments, including death by lynchings, the most violent form of Jim Crow enforcement. It was only beginning in the 1950s and 60s, and because there were those who felt obligated to violate these unjust laws, that the civil rights movement succeeded in ultimately having the laws overturned.

A similar set of circumstances happened later in South Africa when apartheid (separation of blacks and whites) was likewise overturned. In the US, it was such activists as Martin Luther King, John Lewis, and Rosa Parks, and what were known as the Freedom Riders, who were among those most prominent in their principled law breaking. In South Africa, of course, it was Nelson Mandela. In each of these cases, the violators had to be willing to, and did, suffer the consequences of their actions. It may seem ironic to observe that actually breaking the law is the higher order and more principled act, as witness these examples. Unfortunately, throughout history and continuing into the present day there are global examples of what are regarded as unjust laws and of persons who suffered and are suffering the consequences of those laws, as well as of others who suffered the legal consequences for violating what they regarded as bad laws. People who helped Jews in Nazi Germany and German occupied areas during the Third Reich era come to mind as similar examples. In fact, there are numerous examples



almost everywhere of selfless people who put themselves in harm's way in terms of legal jeopardy to try to help others who are in peril.

## **Procedural Justice**

Building upon the research of Tom Tyler (2006) with its focus on what he called procedural justice, Jeff Fagan and Tyler (2005), have investigated the influence of this particular form of justice on the legal socialization of children and youth. In his earlier research, Tyler had found that how people interact with legal authorities, such as the police, is very important in shaping their perceptions of the fairness and legitimacy of the legal system. Because the police tend to be the primary representatives of the legal system for most people, it is the police with whom they are most likely to interact. Tyler found that people are generally much more willing to accept even a punitive outcome, such as being issued a traffic ticket or even being arrested, if they view the process that produced that outcome as being a just one. And by just is meant whether for example, they have been given an opportunity to be heard and their explanations and maybe even excuses have been taken into account. In other words, if people feel they are treated fairly and justly in their encounters with the criminal justice process, they are more likely to obey the law. This is the essence of procedural justice.

The creation and maintenance of a sense of obligation to abide by the law, and an acceptance of the legitimacy of the legal and the political systems are obviously critical to the maintenance of a civil society, because that means that people will "self-regulate." In other words, they will follow the law even when they are unlikely to be caught and punished for breaking it. They do so because they feel obliged to do so and because it is the "right" thing to do. Ultimately, as previously indicated, social order depends upon this kind of voluntary compliance with the law, because law enforcement authorities cannot enforce all the laws against all the people all the time. Keeping everyone under constant surveillance is not only not feasible for many reasons, but attempting to so would create an unacceptable police state atmosphere.

"Most" people, "most" of the time, will abide by the law, even when they believe that their risk of being caught is extremely low, e.g., the Germans waiting for the walk sign mentioned earlier. They do this because they realize that doing so is in the best interests of the society at large, even when it may be detrimental to their own interests in particular instances. Please note that I am saying most people, most of the time — not all people, all the time!

The more recent studies of legal socialization mentioned above added the dimension of contact and interactions with authority figures (a la Tyler) to its original cognitive development premises. These studies show that procedural justice is indeed a significant antecedent to legal socialization. They also demonstrate that when people feel they have been treated fairly in their dealings with legal authorities, they are more likely to comply with the law in the future. Fagan and Piquero (2007) added vicarious experiences into the interactions with the legal system equation as well. This means that perceptions, beliefs, and even behavior, is influenced not only by what one experiences for oneself, but also what one observes or otherwise learns about the treatment of others — vastly multiplying the universe of possible influences. These later studies have thus expanded our perspectives of how and why people might or might not obey the law.

Perceptions of authority as being legitimate lead to trust and obligation, whereas a perception that the law and the legal system is unjust leads to cynicism and an unwillingness to accept and regard rules and laws as binding. The principle of justice as fairness is pretty much a universal value underpinning nearly all justice systems. People universally

want to be treated the same — without fear or favor, as the axiom goes. They believe like cases should be treated in like fashion. This does not preclude the possibility that some cynics may nevertheless feel alienated from the legal and political systems; they become what have been called legal nihilists. A failure to accept laws and legal authorities as being legitimate may also provide a rationale (a rationalization) for violating them, which can in turn lead to criminal behavior.

## A Culture of Lawfulness

Having a society or culture largely made up of conventional, law-abiding citizens requires what has been called a culture of lawfulness. The idea of a culture of lawfulness, a concept that springs from the work of Roy Godson (2000), is intended to provide a bridge between individual-level legal socialization (what an individual experiences, believes, feels and acts upon in terms of their own law-abidingness) and the posture toward law and justice of the larger society in which that individual lives. What constitutes a culture of lawfulness? In essence, it is one in which the population in general follows the law because they feel obliged to do so, feels they are part of the process (they have a say in the making of the law and its application), that they can actually use the law to improve their lives, and, they believe that they can access the justice system to address their grievances. In other words, the “system” works for them. This ambitious ideal has been described as follows:

When the population starts to feel part of the process, they connect to their society, thus strengthening social cohesion and their investment in promoting the rule of law, and they begin to trust in their government and the justice system, both of which are essential for planting the seeds of a culture of lawfulness and respect for the rule of law (United States Institute of Peace, n.d.).

Society is comprised of several elements that influence whether and to what degree it can attain a culture of lawfulness. These elements include what Godson called the centers of moral authority, meaning largely the educational, religious and governmental institutions with which children and young people interact as they grow and mature. Following the family, it is in these interactions that almost all people learn about rules and laws, who administers them, what is their rationale, how fairly they are applied, what are the sanctions for violations, etc. Also, influential (as part of the educational process) are the mass media, which consist of all the news and information sources that are available in multiple formats seemingly all the time. Then there is the popular culture which makes up a large part of the content of the media sources — music, television, movies, and the Internet, with its increasingly prevalent social networking sites. In fact, it is the latter that some would argue have become the predominant mode of influence for young people in particular almost everywhere. Recent cellphone videos of police-citizen encounters in the U.S., which were uploaded to the Internet, are an example of how a medium with particular content can influence perceptions of law enforcement. It is via all these various elements that the norms and values of society with respect to law and justice are both conveyed and maintained. Or, that can conversely become



a source of disrespect and even violation of the law. Some recent research in fact suggests that there is a negative association between greater reliance upon the Internet for news and more extensive engagement in social media, and consequent views of the justice and fairness of the legal system.

A culture of lawfulness is similar in concept to Freda Adler's theory of *synommie*, which she described in her book *Nations Not Obsessed with Crime* (Adler, 1983). Adler speaks of various social control mechanisms, including the family, that are critical to maintaining, preserving, and transmitting shared values. Synommie is a kind of social solidarity that is the opposite of sociologist Emile Durkheim's social anomie and disharmony. In a synnomic society, says Adler, there is a sharing of values and a tolerance for the diverging values of subcultures as well as individuals. These societies share a culture of lawfulness and thus experience lower rates of crime and other kinds of deviance. The challenge, of course, is how to create, insure and maintain such a society. One formalized effort to do so, has been through the offering of so-called law-related education as a way to increase legal knowledge.

## Law-Related Education and Legal Knowledge

One of the interesting questions to consider in this respect is whether knowing more law or more about the law increases one's law-abidingness, makes one more willing and likely to obey the law? On one level, in its simplest form, if this were so it would seemingly mean that lawyers, and judges, and especially law professors would be more law-abiding than say scientists, or teachers, or doctors, or just ordinary people! Although I do not know of any direct research on this particular topic, one might be doubtful that this is the case. So, what is known about any connection between legal knowledge and obeying the law? Tapp and Levine (1974), whom I referenced earlier, addressed this issue as follows:

We do not contend that knowledge about law determines either attitudes or behaviors. In fact, research suggests that factors such as peer influence are more important than legal knowledge... In general, it is not knowledge per se but one's mode of reasoning with available information that determines the making and acting upon specific legal decisions. In our view, [however] acquiring knowledge about law (whether one endorses the law or not) is essential because information about rights, rules, expectations, and so forth expands the ability to understand problems, relate to events, and structure choices (p.32).

In other words, increasing knowledge leads to increased legal reasoning and better-informed decision making about following the rules and the law.

The arguments in favor of offering some form of legal training and what is called law-related education have included the idea that if people are knowledgeable about the law, they will be less likely to break it by mistake. Secondly, it is believed that greater knowledge of the law will produce greater cognitive and moral support for the law. And third, that greater knowledge of the law will produce a greater fear of the consequences for breaking it. The first and third arguments here seem rather straight forward. Knowing that something is against the law certainly acts as a guide to behavior. When paired with the adage that ignorance of the law is no excuse, knowledge of the law means that unlawful acts are being committed knowingly. As for the third argument, knowing what are the consequences for breaking the law means that a rational choice has to be made for violating it.

It is the above middle argument with respect to moral support that seems most prob-



lematical. As was described earlier, there are situations in which people know what the law is, but have a fundamental moral disagreement with it, and may even feel compelled to violate it. Unfortunately, the available research evidence offers little to no support for any of these three arguments. There appears to be little relationship between knowledge of the law per se and improved attitudes and behavior. But then this is consistent with the underlying premise of this paper, and that is that any individual's relationship to the law is quite complicated and multi-faceted. What can be said with respect to legal knowledge, with some degree of confidence, is that there is no reason to think that lawyers should be more law-abiding than anyone else!

## Some Concluding Thoughts

One of the more intriguing aspects of pondering why people do or do not obey the law, is the matter of the morally principled law violators — the post-conventional moral and legal reasoning persons. In a very recent piece of research on this particular topic, Paul Hennigan (2023) studied what he called prosocial rule-breakers. Pointing out that adherence to legal rules and moral rules are not necessarily one and the same, Hennigan writes that illegal but moral behavior may often be at the forefront of positive social change. This echoes my earlier point about an obligation to violate unjust laws. As long as a large portion of the population obeys what on its face is an unjust law — either because they are cowed by the possibility of punishment or because they have a misguided belief that they are obligated to do so — then that law and its enforcement will not change. This is because the legal and governmental authorities have a vested interest in maintaining the law and the policies that go along with it — they want to maintain the status quo.

One does not have to look very far onto the world stage today to find examples of unjust laws and procedures — whether they be based upon religion, race, ethnicity, nationality or gender. Without sufficiently widespread violation of such laws, and violators probably suffering the legal consequences along the way, these unjust laws will not change. Large scale social change, and in this case, legal change, almost always flows upward from those at the bottom of the socioeconomic and political ladder, and rarely downward from those at the top. But whatever its impetus, it seems that what is and will be required to foment change are morally principled persons (prosocial rule-breakers) who willingly and knowingly disobey the law.

## Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

## Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

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