

The Power of Legitimacy in Obedience to the Law

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Why do people obey the law? Considering that there are relatively few members of society whose primary role is to enforce laws – far less than would be needed to directly force us all to obey, or catch us if we all disobeyed – why is society still largely made up of generally lawful people, even when it comes to laws that keep them from having things they need or want? In the absence of authority figures who can directly compel obedience, it is a sense that laws are just and legitimate that causes people to honor them; therefore, the power to compel obedience to the law is derived from the power to sway public opinion to the belief that the law and its agents are legitimate and deserving of this obedience.

The power of perceived legitimacy to compel obedience is so great that it frequently makes people act against their own self-interest. The drug trafficker waiving his Constitutional protections and agreeing to let drug enforcement officers search his bag, despite the fact that he knows full well it contains illegal drugs (Florida 294), is clearly acting under a strong influence to obey the wishes of the police officers. As Peter Kropotkin points out in his essay “Law and Authority”, this attitude towards the law has been deeply engrained in our society since the advent of the middle class after the French Revolution; in response to the rampant abuse of authority by the nobility, strict adherence to the law was conceived as the ultimate equalizer within society. “Whatever this law might be,” Kropotkin writes, “it promised to affect lord and peasant alike; it proclaimed the equality of rich and poor before the judge” (159). Furthermore,

belief in the absolute legitimacy of the law is so great that people will usually obey the law even when the law contradicts their own morality; in an empirical study of obedience, 82 percent of respondents agreed with the statement "People should obey the law even if it goes against what they think is right" (Tyler 485).

But what gives laws this air of legitimacy? Peter d'Errico suggests in his essay "The Law Is Terror Put into Words" that the very framework of our system of laws is designed to perpetuate itself. "The concept of civil rights", he writes, "has meaning only in the context of an over-arching system of legal power against which the civil rights are supposed to protect" (247). Furthermore, the concept of due process as a safeguard of personal freedom is simply a way to frame the legal debate squarely within "the existing legal universe and in its terms" (d'Errico 248). So, every time we see the system "work" – excluding evidence obtained by an illegal search, for example, or granting an appeal to a convict based on new evidence – we grow more convinced of the system's legitimacy. Another way that perception of the law's legitimacy (and specifically, the legitimacy of the law's representatives) increases is analyzed in Herman Goldstein's essay "Confronting the Complexity of the Policing Function". Goldstein examines the changing role of police officers, especially in high-crime areas, as they move from a strictly reactionary, enforcement role to embrace more community-oriented, preventative measures (266). As populations that are typically distrustful of authority begin to see law enforcement agents as partners

in effecting positive changes within their communities, their trust in the legitimacy of the law will also increase. Thus, legitimacy of the law can be increased by fostering trust in the law's representatives.

Perhaps the greatest evidence of the role legitimacy plays in fostering obedience to the law can be seen in situations where that sense of legitimacy is lost on a large scale. A perfect example is during the American civil rights movement in the 1950s and 60s: millions of African-Americans (and their white allies) lost faith in the legitimacy of the laws that discriminated against them. The result was disobedience on a massive scale – illegal marches, demonstrations, and other acts of civil disobedience designed to expose the injustice of the legal system. It's important to note that this large-scale disobedience didn't come just from displeasure with the effects of certain laws (in fact, as has been shown, people tend to comply with laws even if they disagree with them), but from a total breakdown in the legitimacy of the system that created them. According to Rev. Martin Luther King, Jr., "one has a moral responsibility to obey unjust laws" (252); he defined unjust laws as laws that were incompatible with moral law, but the specific criteria he used to arrive at that decision are unimportant – his contemporaries Tweed, Segal, and Packer used totally different criteria but also arrived at the conclusion that "it is a courageous and commendable act for a man to defy a law in order to attack its validity through the processes of law" (7). What is important is the effect, which was a massive and nationwide breakdown in law and order for years until the unjust

laws were changed. Clearly, obedience to the law hinges upon the public perception that the law is legitimate.

Legitimacy of the law is not the only factor in determining obedience, but from a study of the power of legitimacy, the ways in which legitimacy can be increased, and the effects of a large-scale breakdown of legitimacy, it is clear that the degree of faith in law's legitimacy plays a significant role in compelling society to obey.

Works Cited

Bonsignore, John J., Ethan Katsh, Peter d'Errico, Ronald M. Pipkin, Stephen Arons, and Janet Rifkin. Before The Law: An Introduction to the Legal Process.

Boston: Houghton Mifflin Company, 2006.

d'Errico, Peter. "The Law Is Terror Put into Words." Bonsignore, Katsh, d'Errico, Pipkin, Arons, and Rifkin 246-249.

Florida v. Bostick, 489 U.S. 656 (1991). Bonsignore, Katsh, d'Errico, Pipkin, Arons, and Rifkin 293-299.

Goldstein, Herman. "Confronting the Complexity of the Policing Function."

Bonsignore, Katsh, d'Errico, Pipkin, Arons, and Rifkin 265-272.

King, Martin Luther, Jr. "Excerpt from 'Letter from Birmingham Jail'." Bonsignore, Katsh, d'Errico, Pipkin, Arons, and Rifkin 251-253.

Kropotkin, Peter. "Law and Authority." Bonsignore, Katsh, d'Errico, Pipkin, Arons, and Rifkin 158-162.

Tweed, Harrison, Bernard G. Segal, and Herbert L. Packer. "Civil Rights and Disobedience To Law." Presbyterian Life 1 February 1964: 6-9.

Tyler, Tom. "Why People Obey the Law." Law & Society: Readings on the Social Study of Law. Ed. Stewart Macaulay, Lawrence M. Friedman, and John Stookey. New York: W.W. Norton & Company, 1995. 474-495.

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