Page 571 - 585 **DOI:** https://doij.org/10.10000/IJLMH.115448

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 4

2023

© 2023 International Journal of Law Management & Humanities

Follow this and additional works at: https://www.ijlmh.com/
Under the aegis of VidhiAagaz – Inking Your Brain (https://www.vidhiaagaz.com/)

This article is brought to you for "free" and "open access" by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact **Gyan@vidhiaagaz.com**.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to **submission@ijlmh.com.**

Why do we obey Laws?: Naturalism or Positivism

SYLVESTER F LARBEINDEE JR[1]

ABSTRACT

According to Thuku, "Civil disobedience is not our problem; our problem is civil obedience. Our problem is that numbers of people all over the world have obeyed the dictates of the leaders of their government and have gone to war, and millions have been killed because of this obedience. Our problem is that people are obedient all over the world in the face of poverty, starvation, stupidity, war, and cruelty. Our problem is that people are obedient while the jails are full of petty thieves, and all the grand thieves are running the country. That is our problem"

The question of why we should obey law can be answered by either natural law or legal Positivism. The philosophy of jurisprudence presents two common models; one which stresses the necessary connection between law and morality and the other which denies such connection. The choice between law embedded in morality or law separated from it illustrates the ideology of

Natural law and legal positivism. To understand the concept of obeying laws, it is vital to analyze both models. The research assessed the role of natural law and legal positivism in defining laws and the reasons offered by each model for obedience to the dictates of the law. The comparison of the two perspectives of the law helps in understanding the most realistic model that makes laws mandatory for the people and communities governed by the law. The concept of law depends on the social and political life while jurisprudence emphasizes on the themes of justice, equality, and fairness. Jurisprudence answers the basic question of what is the nature of law and its purpose.

Keywords: *Obedience, Law, Naturalism, Positivism, Jurisprudence, Obey.*

I. INTRODUCTION

According to Thuku, "Civil disobedience is not our problem; our problem is civil obedience. Our problem is that numbers of people all over the world have obeyed the dictates of the leaders of their government and have gone to war, and millions have been killed because of this obedience. Our problem is that people are obedient all over the world in the face of poverty, starvation, stupidity, war, and cruelty. Our problem is that people are obedient while the jails

[1] Author is a student at Marwadi University, India.

© 2023. International Journal of Law Management & Humanities

are full of petty thieves, and all the grand thieves are running the country. That is our problem"

The question of why we should obey law can be answered by either natural law or legal Positivism. The philosophy of jurisprudence presents two common models; one which stresses the necessary connection between law and morality and the other which denies such connection. The choice between law embedded in morality or law separated from it illustrates the ideology of Natural law and legal positivism. To understand the concept of obeying laws, it is vital to analyze both models. The research assessed the role of natural law and legal positivism in defining laws and the reasons offered by each model for obedience to the dictates of the law. The comparison of the two perspectives of the law helps in understanding the most realistic model that makes laws mandatory for the people and communities governed by the law. The concept of law depends on the social and political life while jurisprudence emphasizes on the themes of justice, equality, and fairness. Jurisprudence answers the basic question of what is the nature of law and its purpose.

The purpose of jurisprudence is to assess the theories of law and legal systems. It also emphasizes the ideology of law, justice and legal system. This research considers arguments from both natural law theory and legal positivism and how these two systems can help in understanding law as well as deciding the system suitable for crafting law. The research provides an in-depth view of the theories of natural law and legal positivism focusing on uncovering the purpose of law and how it relates to justice. The analysis of the theoretical questions helps in understanding the concept of obeying law. The theories are central in determining how they maintain law and order by reducing immorality in the society. It explores the association of morality and legal system with the duties of people.

Legal philosophers have argued on the question of why laws should be obey and all of them have taken different positions. The views can be classified into two, Natural law theory and Legal Positivism theory.

Natural law theory believes that law and morality are two sides of the coin which exist together and that the moral force of the law determines it validity and power to constitute obligation to be obeyed.

In the views of the Legal Positivism, the law contradicts with morality and since it contradicts, there is no link between law and morality such that laws are meant to be obeyed on the basis of its internal validity and not the claim of rightness.

© 2023. International Journal of Law Management & Humanities [ISSN 2581-5369]

II. Obedience of law according to naturalism

(A) Defining natural law[2]

Natural law is a theory of ethics that says that human beings possess intrinsic values that govern our reasoning and behavior. The theory of natural law believes that our civil laws should be based on morality, ethics and what is inherently correct. The natural law believes that human laws are to be govern by morality and not by the authority figures like King or Government, Culture or Custom. The natural law holds three perspectives according to its paradigm, they are as follow: the natural laws are said to be given by God, It is Naturally authoritative of Human Being, and it is naturally knowledgeable by all human beings.

(B) Obedience of law from the naturalist perspectives[3]

According to the natural law legal theory, disobeying the law is wrong because it violates supererogatory acts rather than just failing to perform what is morally right. The natural law permits the duty to observe the law to be waived when a real need emerges, be outweighed by other factors. As an illustration, disobedience to an unjust rule or authority who abuse their authority is acceptable according to the natural law legal doctrine, indicating the challenges in explaining why people should feel motivated to follow the law, Greenawalt observes that the question challenges the common assumptions we make. On the other hand, consider it obvious that everyone should abide by the law. The duty to obey the law concerns what citizens generally owe their leaders and fellow citizens. In this way, the question seeks to establish whether or not citizens have an obligation or duty to comply with government directives.

(C) Thomas aquinas on obedience of law

The chief proponent of the natural law theory in Jurisprudence is Thomas Aquinas. According to him, law is nothing else than an ordinance of reason for the common good, made by him who has care for the community.

According to Aquinas, no individual should obey a law that he or she believes to be unjust, because laws that violate reason are not laws. Moreover, laws must have sufficient flexibility to be waived when necessary in the interest of the common good.

Aquinas identified four categories of law. God's flawless design, eternal law, was not entirely

---

[2] *Natural law* (2023) *Encyclopædia Britannica*. Available at: https://www.britannica.com/topic/natural-law (Accessed: 13 July 2023).

[3] *Epistemology : An introduction to the theory of knowledge* (no date) *Jesuitsafrica*. Available at: http://polanco.jesuits-africa.education:8080/jspui/bitstream/123456789/94/1/Epistemology%20-%20An%20Introduction%20to%20the%20Theory%20of%20Knowledge%20%28Suny%20Series%20in%20Philosophy%29.pdf (Accessed: 13 July 2023).

understandable to humanity. It established how people should behave as well as how things like animals and planets should function. God's law, principally found in the Bible, lead people to the "City of God," which St. Augustine referred to as "everlasting pleasure," beyond this world.

Natural law was the subject on which Aquinas wrote the most. He said, "The light of reason is placed in every man by nature [and hence by God] to lead him in his activities." As a result, only humans, among God's other creations, live their lives using reason. Natural law governs this.

According to Aquinas, the supreme rule of nature is that "good is to be done and pursued and evil avoided." According to Aquinas, reason exposes specific natural laws that are beneficial for people, such as the need to know God, desire for marriage and family, and self-preservation. He asserted that human beings may grasp terrible behaviors like adultery, suicide, and lying through the use of reason.

Human law may change depending on the time, place, and circumstances, whereas natural law pertained to all humanity and was constant. This final category of law was described by Aquinas as "an ordinance of reason for the general welfare," created and upheld by a ruler or government. However, he cautioned that individuals were not had to abide by regulations imposed by humans that went against natural law.

(D) Thomas hobbes on obedience of law[4]

In his book ‘The Leviathan’, he starts with the hypothetical state of nature where he says that no laws existed other than the law of nature which is the survival the fittest. In this state, human beings are controlled only by reason and had a right to everything they could lay their hands on.

The process of constituting a sovereign involved the making of a social contract through which they surrendered their rights. The submission of people to law is based on the social contract through which they surrendered their powers to the sovereign. In the contract, human beings were to lay down their rights and give it up to some superior ruler for as long as everyone did the same.

On this foundation, the king attained absolute authority and demanded submission from everyone. Therefore, according to the rules established by the ruler is fulfilling one's obligation

[4] *Thomas Hobbes* (no date) *Encyclopædia Britannica*. Available at: https://www.britannica.com/topic/philosophy-of-law/Thomas-Hobbes (Accessed: 13 July 2023).

under the agreement that holds society together and keeps it from reverting to its natural state.

Since no one likes life in a state of anarchy, everyone is required to obey the law since disobedience constitutes a violation of the contract that runs the risk of the community coming apart.

One can easily infer from Hobbes' experience that his argument for unqualified adherence to the law may have been motivated by a wish to shield society from the severe effects of war that he had witnessed for thirty years.

In addressing the issue as to why anyone should obey the state, Hobbes produces four answers; firstly, one should obey the state because it is their duty to do so. Secondly one should obey the state because it is in their best interest to do so, the third reason is that such a scheme of obedience to law is more of a benefit to everyone and the final and rather blunt reason is that one stands a chance of being hurt in case they do not obey the state.

(E) John finnis on obedience of law

John Finnis is a natural law theorist of the modern times and his recent work on natural laws has received great acclaim even from theorist who do not support his main ideal. Finnis begins his argument by stating that there are seven basic human goods or basic forms of human well-being which include Knowledge, Life, Play, Aesthetic experience or Beauty, friendship, Practical Reasonableness or Religion.

Finnis believe that the central meaning of law is that of an act of practical reasonableness made by an appropriate authority for the common good. He secondary meaning of law is based on how close or removed a particular instance of law is to the primary meaning. John Finnis takes himself to be explicating and developing the views of Aquinas and Blackstone. Finnis believes that the naturalism of Aquinas and Blackstone should not be construed as a conceptual account of the existence conditions for law.

Like classical naturalism, Finnis's naturalism is both an ethical theory and theory of law. Finnis distinguishes a number of equally valuable goods. Each of the goods according to Finnis, has intrinsic value in the sense that it should given human nature, be valued for its own sake and not merely for the sake of some other good it can assist in bringing about.

In his discourse on natural law, Finnis differs with the traditional position that natural law seeks to infer its moral principles from the natural order, reasoning or speculation about what nature was before society and government came into existence and in offering an alternative to this classical position, he holds that natural law comes from an intrinsic knowledge, an intuition

which is admittedly subjective and needs no external justification. To the idea that natural law does not recognize a law as law if it is in conflict with a precept of natural law, he avoids a confrontation with positive law and states that natural law theory is based on the ideas of Thomas Aquinas and his predecessors, and they did recognize the legal validity of unjust laws.

(F) Main arguments of naturalist on obedience of law

Citizens are bound by the general and presumptive responsibility defended by Finnis, hence they should be required to obey the law since it is their natural duty to do so insofar as it is the law. The natural law theorists define natural duty as an obligation that results from being a person and a member of a society. Following this argument, the obvious inquiry is: What are the foundations upon which such a natural responsibility is established? The usual answers provided by Greenawalt can be taken into consideration. Different natural law perspectives provide different answers to this question.

First, according to the conventional interpretation of natural law, human law derives in some way from moral standards that are both universally applicable and susceptible to rational discovery. Duties like the obligation to follow the law are deducted from these standards. Second, the philosophy of human nature and good is connected to obligations. According to this view, there exist human goods that can be determined rationally. According to John Finnis, there are some things, like friendship and knowledge, that are intrinsically valuable to all people. Since achieving these goals is essential to human happiness, society must be structured in a way to do so. Finnis adopted St. Thomas Aquinas' perspective.

In accordance with this conventional viewpoint, laws should be followed because they provide guidelines for the advancement of a particular conception of the greater good of humanity and the kind of social order that is necessary to accomplish that greater good. John Finnis refers to this social order and the human good it aspires to as the "common good" in the manner of Thomas Aquinas. The natural law defines "common good" as the good that applies to all community members. The common good has two meanings in the natural law tradition: first, it is shared in the sense that it values all people, and second, it is a prerequisite for the attainment of other goods like friendship. Being a law-abiding citizen is one of the actions one might take to advance the common good, according to the natural law legal theory, which maintains that everyone has a responsibility to do so. According to John Finnis, citizens have a duty to uphold the law even if they are unable to identify a compelling reason to do so on their own. In order to achieve the common good, there must be both laws dictating what should be done and what should be avoided, as well as the power to organize the intricate activities that lead to the

common good. Greenawalt notes that the natural law legal system calls for the law and political authority to educate the uneducated and punish the guilty.

Second, the duty to uphold the law derived from natural law The commitment to advance justice in communities is the foundation of legal theory. John Rawls argues in favour of this interpretation of natural law, particularly in his book A Theory of Justice. In his opinion, the legitimate general moral groundwork for abiding by the law in a fair society is the inherent duty to support and advance just institutions. According to John Rawls, who argued that laws must be drafted in a world where no one is aware of their status or privileges, societies and their institutions will be just and deserving of citizens' obeisance if equal liberties, just equality of opportunity, and the elimination of wealth disparities are given priority. Under this context of fostering and supporting just institutions, the natural obligations to obey the law arise. According to Rawls, "First, we are to comply with and do our part in the just institutions when they exist and apply to us; and second, we are to aid in the formation of just arrangements where they do not exist, at least when this can be done with little cost to ourselves."

The argument put forth by Rawls is that members of just societies have a responsibility to uphold the institutions of justice that support those societies in order for justice to flourish there. On the other hand, where such institutions are lacking, residents are required, barring exceptional circumstances, to contribute to their establishment and upkeep. John Rawls acknowledges that in reality, the duty to support just institutions includes the need to respect some of the laws that are unjust as long as they do not go beyond the bounds of justice in his argument for legal obedience from the perspective of natural duty. According to Greenawalt, the problem with John Rawls' arguments on the subject of one's inherent obligation to obey the law is that they were created from an imagined starting stance and while concealing ignorance.

When examining the natural law legal theory's justification for the moral obligation to obey the law, it is crucial to consider whether and under what conditions the obligation to obey the law might be overridden by other competing factors. There are two justifications for breaking the law, which take precedence over the obligation to do so. Unjust laws and unjust regimes come first and second on this list. As was already mentioned, conventional natural law theorists contest the idea that the need to obey the law extends to unjust laws. The saying "an unjust law is not truly a law at all" perfectly captures this. According to Greenawalt, the expression should not be interpreted to mean simply breaking the law. Instead, it needs to be unpacked clearly. First, according to Thomas Aquinas, an unjust law is one that is opposed to the advancement of human welfare as a goal and that imposes onerous regulations on its subjects for the legislative body's own selfish ends rather than for the benefit of the public good. Following Augustine,

© 2023. International Journal of Law Management & Humanities

Aquinas contends that such actions produce violence rather than law. Such unjust laws do not bind the conscience, and as a result, there is no need for citizens to obey them.

III. Obedience of law according to legal positivism[5]

(A) Definition of legal positivism

A legal philosophy known as legal positivism emphasizes the customary nature of law, which is that it is a social construct. Legal positivism holds that the terms "law" and "positive norms," that is, "norms created by the legislator or regarded as common law or case law," are interchangeable. Legal positivism does not imply an ethical defence of the law's provisions or a stance in favour or against legal compliance. Positivists only evaluate laws based on their methods of creation, not on considerations of justice or humanity. This involves the idea that when judges rule on matters that don't obviously come under a legal rule, they create new law.

(B) Bentham and austin on obedience of law

Legal positivism was established in the 18th and 19th centuries, primarily by Jeremy Bentham and Austin. The natural law hypothesis was challenged by this. The only claim made under this relates to the fact that law was made. A positivist will only examine how the law is put into effect and will not examine what the law is made of. According to the idea, legal positivists should only evaluate laws based on how they were written, not whether they are just or humane. Under the naturalist paradigm, all of the traditional objections to Positivism theory will be addressed.

The legal positivist movement was started by Jeremy Bentham. Bentham did, however, take a step in the direction of incorporating moral philosophy. He explained the greatest happiness concept, sometimes known as the utilitarian principle, in his well-known way. In this, he emphasizes that it's not just about figuring out how beneficial something is, but also how much satisfaction it actually brings. Bentham does place weight on the fact that a moral imperative to maximize happiness was created. His book "Introduction to Principles of Morals and Legislation," in which he stressed the necessity of the rational principle as a guide for legal reform, makes them very clear. Bentham, in contrast to Hobbes, believes that the legislature should alter since it will encourage it to act in accordance. Bentham did, however, hold that law is an expression of the sovereign's will and not a foundational principle of natural law. Austin later developed this viewpoint. Thus, even though the law challenges the moral foundation, it is still law. Despite the fact that Bentham presents his utilitarian theory, he largely continued to

[5] *Legal Positivism* (no date) *Internet encyclopedia of philosophy*. Available at: https://iep.utm.edu/legalpos/ (Accessed: 13 July 2023).

be opposed to the structure of natural law.

Similar to this, Austin took a strong stance, rejecting the idea of natural law and presenting the command theory. Austin asserts that the law is nothing more than a sovereign's command. The sovereign is the person who is revered by all. The command is always accompanied by some sort of sanction. Austin's argument undoubtedly fails to account for the state of the political system today. No political system will exist where Austin's command theory will be a perfect fit. Austin was very explicit in his stance that the law is not moral. Austin made it very apparent at one of the lectures that, "the most pernicious laws, and therefore those which are most posed to the will of God, have been and are continually enforced as laws by Judicial tribunals". Even if the law is opposed to nature it is still a law, and must be obeyed, since it is given by the sovereign.

(C) Hart on obedience of law

According to Hart, the presence of an obligation binding on an individual implies the fact that there are rules imposing such. However, not all rules impose an obligation, and Hart gives the example of etiquette.

For Hart, a law is valid when it is enacted by an authoritative source recognized by the rule of recognition, this concept is referred to as the "Source of Thesis". According to Hart, in order for a rule to impose legal obligation, it must be legally valid; thus, it must be enacted form of the authoritative source. In the Hartian theory, the concept of legal obligation is closely linked to the concept of legal system. As long as there is a legal system,there would be legal obligation binding on the individuals.

Hart further explains that rules can be understood from two perspectives.

- The external point of view, the point of view of an observer where rules are seen as a regular pattern of conforming behaviour.
- The internal point of view, the point of view of a participant who accepts the regular standard of behaviour as a guide of conduct and as a standard of criticism.

(D) Working on obedience of law

Dworkin criticizes the institutional focus of positivism as a whole and disputes the possibility of any general theory of the existence and content of law. He also disputes the ability of local theories of specific legal systems to identify law without reference to its merits. According to him, a theory of law is a theory of how cases should be determined, and it starts not with a description of how politics is organized but with an ideal that governs the circumstances in

which governments may use coercive power against their citizens. A society only has a legal system when and to the extent that it upholds this ideal, and its law is the collection of all factors that its courts would be ethically justified in using, whether or not those considerations are determined by any source.

In line with the aforementioned, Dworkin contends that the integrity of the law advances the principles of self-government and democratic participation. The rule of law is highly regarded in such democratic, self-governing governments. The argument made by Dworkin is that legalistic governments are more effective and stable overall, which makes them admirable. It may be necessary to apply coercive punishments against those who disobey the law in order to uphold these principles. According to Dworkin, "law is necessarily connected to the extent to which coercion may be employed lawfully.

(E) Main arguments of the legal positivism on obedience of law

The main contention of positivism is that the law as it is (actually) and the law as it should be must be kept apart. The two classical philosophers John Austin and Jeremy Bentham have maintained legal positivism, a subset of positivism in general. Modern positivists like H. L. Hart, Hans Kelsen, and Joseph Raz have criticized and modified these ideas.

It should be mentioned that legal theorists who adhere to the positivist school of thought share the goal of identifying and analyzing the essential characteristics of the legal system that define it as such. This explains the positivists' focus that formal rather than moral standards must be used to characterize law. For positivists, the law must be understood in terms of content that are dependent on social factors other than the merits of the law, as noted by Green and Adam. Positivists contend that the legitimacy of the law, not its claim to be correct, should be used to describe it. . In other words, what matters is the fact that the law is validly constructed and promulgated, even if it does not conform to the demands of morality.

IV. Comparison between the two schools of thought

(A) Natural law and legal positivism point of convergence

From the foregoing, another area of convergence between the two methodologies in question can be recognized. On the coercive nature of the law, both parties concur. From the standpoint of natural law, Finnis contends that the law must enforce justice through force in order to prevent invaders and pirates from gaining an edge given the current global circumstances. Justice will be rendered ineffective as a result. A direct danger to their self-interest is the only way to constrain the obstinate, boorish, and unprincipled, and this is where the coercive aspect

© 2023. International Journal of Law Management & Humanities [ISSN 2581-5369]

of the law steps in to regulate their resistance. Finnis believes that because of this, law must be forceful, firstly by enforcing punishing punishments, and secondarily by instituting preventative measures, interventions, and constraints.

The arguments made by Dworkin support a similar viewpoint. According to Dworkin, governments should be conducted according to legal principles to ensure efficiency and stability. The application of coercive punishments for breaking the law is necessary for these values to be achieved. According to Wacks, Dworkin's view of the law is inextricably linked to the amount to which coercion may be used lawfully. He goes on to say that communities are justified in assuming and using a monopoly of coercive force by viewing political and legal integrity as a virtue. It is noteworthy that Dworkin is aware of the risks associated with the arbitrary use of coercion. In this sense, he contends that "arbitrary coercion or punishment breaches that key characteristic of democratic equality, even if it occasionally results in more effective government. This suggests that compulsion must be used as an efficient instrument in the best possible ways to avoid destroying equality in the political society. As a result, for Dworkin, abiding by the law is not a means to an end but rather a safe strategy to ensure everyone in the political community is treated equally and equally important in terms of their well-being.

(B) Natural law and positivism point of divergence

The important differences between positivist and natural law theories must not outweigh their equally important differences. The first notable distinction between the positivist and natural law approaches relates to the legitimacy of the law. The command theory of law by Austin, a classic example of positivism, views the law as the command of the superior or sovereign that is routinely obeyed. Austin had claimed that the sovereign's use of force to subjugate others and regulate their behaviour through punishments is the source of the law's legitimacy. The sovereign issues orders that are then a duty to those who are under his control because of his or her ability to punish others or cause harm. As Wacks contends, this ties command and duty together. In this way, the sovereign's tactics of ensuring the compliance of his subjects, the sanctions he imposes have the power of law.

According to Breckenridge, Hart shows that this idea of the power of law as merely commands backed by threats and routine adherence is insufficient for comprehending the tenets of a legal system and their legal validity. As a result, Hart believes it is wrong to simplify the law to simple commandments and obeying them. His claim is that such routine compliance with commands supported by threats lacks the continuity required for any legal system. Hart used Rex, an

excellent example of an absolute king, to illustrate his point. Every one of Rex's subjects has formed the habit of obeying him, and Rex exercises authority over them by issuing general orders backed by sanctions. The subjects have developed the habit of following Rex's orders in various ways, and they are likely to keep doing so. Hart believes that such a group can legitimately be referred to as a state because of the unity that is created when all of the members obey the same leader, regardless of whether they believe it is morally appropriate to do so.

V. Conclusion

Due to equally compelling reasons on both sides, the topic of why one should obey the law continues to be debatable. Values are categorized, and they must be upheld at all times. However, how will we decide which values should be ranked higher and which lower? Due to cultural relativism, it may be hard to decide, and the decision must be made separately from the situation. Positive law is often more specific and explicit than natural law. Positive law does not address what ought to be, but rather clings to what the law now is. This "need" can be expressed in a variety of ways depending on the circumstance and the individual. The beginning of the "believing" system must be the "ought." Natural law is eminently acceptable in establishing the norm of what is good or wrong and does in fact stand for a. However, a difficulty occurs when this "ought" expression, or rather, "belief," varies for other creatures. In this case, it is required to play an authoritative role and produce a law that should be defined in terms of what law is, rather than what law ought to be.

(A) The debate in modern days

While some believe that no law, no matter how horrible, should be disregarded, others have held the opposite belief that any rule deemed to be evil may be disobeyed guiltlessly. The argument rages on, and there has never been a solution that has been accepted by both sides of the argument since the days of the classical natural law theorists and classical positivist law theorists. Although the imposition of penalties for disobedience has highlighted the obligation to abide by laws as established, it has been argued that even though people may abide by the rules in question out of fear of the penalties, it is also possible that the same rules would have been followed even without them. Morality can be linked to either such obedience or disobedience. Morality shouldn't enter into legal disputes, according to positivists, although it is only a general stance given that certain positivists, like Jeremy Bentham, mention morality in their discussion of positive law.

Even some proponents of natural law theory have argued in favour of strict adherence to the rules established by the sovereign. Thomas Hobbes falls into this group since he held the

opinion that the sovereign is the most powerful person and cannot be overthrown because they are the only ones standing between a civilized society and the natural world. Bentham is not the only theorist who has 'defied' the accepted positions of the ideas they propose, though. A citizen may choose to violate the law if, in certain situations, they believe it excessively unfair to follow or apply, according to positivism H.LA Hart. However, theorists on both sides are aware of the effects of obeying or disobeying the law. Thomas Aquinas and other naturalists believed that breaking the law outright just because it is unfair is not the best course of action. He claimed that such disobedience might establish a culture of disobedience and disrespect for the law while also having the potential to bring down a legal system. Therefore, in order to prevent the negative effects of disobedience, it is prudent, in his opinion, to respect even an unjust law.

On the other hand, positivists hold that a law is, properly and strictly speaking, a command of the sovereign that is supported by a sanction. As a result, it is imperative that all laws that fit this criteria be followed exactly. This has led to new issues with laws that fulfil this criteria but are completely wrong, such the laws of autocratic governments and regimes that have exterminated their own citizens. However, are these the kinds of laws that bind society together in order to achieve the shared goals of the populace? Their laws are mandates from the sovereign to their people, and they are supported by sanctions.

(B) Suggestion

Thus, the argument between legal positivism and natural law is heated. There seems to be a widespread understanding on both sides that laws should be followed, even though it is fairly obvious and appears to have no end. It should be made clear that only "just" rules and those that appear to work to guide society toward achieving what has been referred to as the common good should be considered. The upkeep of peace and order can be considered the primary reason that both parties appear to agree as compelling any individual to observe the law, with other factors being only incidental to it.

These seemingly incompatible conceptions of law may and must be merged to improve our knowledge of the intricate phenomena of law, as the research has shown. Positivism and natural law are complementary and equally essential approaches to a social institution of the utmost significance, not opposing theories of law. The appeal for the integration of these legal ideas is by no means innovative. Sensitive legal experts have always agreed that the two approaches are complimentary rather than antagonistic and that neither has a fleeting appeal, even those who are openly committed to one theory or the other. In the end, I believe that those who create law and those who attempt to uphold it should respect both schools of thinking and instead create a

hybrid school that combines the two.

*****

© 2023. International Journal of Law Management & Humanities

VI. Reference

- *Do we have an obligation to obey law* (no date) *legal Service India*. Available at: http://www.legalservicesindia.com/article/2559/Do-We-Have-An-Obligation-To-Obey-Law.html (Accessed: 13 July 2023).
- Diganth Raj Sehgal (2020) *Why we obey law? positivism v. naturalism*, *iPleaders*. Available at: https://blog.ipleaders.in/obey-law-positivism-v-naturalism/ (Accessed: 13 July 2023).
- Hart, H. L.A. The Concept of Law, 2nd edition, Clarendon Press, 1994.
- Murphy, Mark C. "Natural Law Jurisprudence." Legal Theory 9, Cambridge University Press, 2004.
- Rawls, John. A Theory of Justice. Harvard UP, 1999.

*****