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Is there a Prima Facie Obligation to Obey the Law?
An Empirical Examination of the Question in Israeli Society

1. ISRAELI SOCIETY AS A NATURAL LABORATORY

The question of whether citizens feel that they are under a ‘prima facie’ obligation to obey the law or perhaps have the right to take the law into their own hands is examined based on the findings of a survey conducted on a national sample of 1866 Jews and Arabs in Israel. While the majority of the respondents believe that they are obliged to obey the law with no exception, there are still 15 per cent among the Jews and 20 per cent among the Arabs who see themselves obliged to the law with no exception. The findings of a multivariate analysis show that SES and injustice are associated with disobedience. The greater the sense of injustice, the higher the tendency to take the law into one’s own hands.

The question of whether there is a ‘prima facie’ obligation to obey the law has long occupied the attention of moral, political and legal philosophers who have explored the theoretical and philosophical aspects of the issue. Occasionally, the question has also been put to a practical test. Such was the case with Socrates as early as 399 BC. When Crito argued that Socrates should flee from prison to avoid an undeserved death penalty, Socrates’ response was: ‘...in no circumstances must one do wrong.... In that case one must not even do wrong when one is wronged.’ Bedau (1969) credits two other events with fuelling discussion of this topic: Thoreau’s refusal in the 1840s to pay his poll tax in objection to the federal government’s aggressive war against Mexico (Thoreau, 1963); and Martin Luther King’s Letter from Birmingham City Jail written while behind bars for violating an injunction against participation in a civil rights demonstration. In response to the dilemma of breaking some laws while obeying others, King wrote: ‘there are just and there are unjust laws. I would agree with Saint Augustine that an unjust law is no law at all’ (King, 1964).

Hence, the question of whether an individual has the right (or perhaps the duty) to disobey the law, when his/her mind, conscience or religious faith tells him/her that the law is unjust, has been rarely tested empirically. Most research in this area has focused on support for the legal system. Several studies have attempted to explain the paradox between feelings of dissatisfaction, on the one hand, and the need to obey the law, on the other (Murphy and Tanenhouse, 1974; Rodgers and Lewis, 1974; Skogan, 1971). Findings have shown that while a certain degree of dissatisfaction with the legal system exists, this is not automatically associ-
ated with any denial of the legitimacy of the law (Easton, 1973). Sarat’s (1980) attempt to measure support for the legal system indicated that 70 per cent of adults agreed that a law must always be obeyed even if it goes against what they think is right. In Iowa, 93 per cent of 1,001 adults said a law should always be obeyed regardless of personal feelings (Boynton, Patterson, and Hedlund 1968). Similar findings emerged in studies involving children. In a study conducted by Engstrom (1970) with a sample of children in the fourth to eighth grade, four per cent of whites and eight per cent of blacks said that they might disobey a policeman if he were wrong in what he told them to do. Among high school students, 77 per cent of whites and 72 per cent of blacks agreed that people should always obey the law (Rodgers and Lewis, 1974). In another study, (McClosky and Brill, 1983) 54 per cent indicated that it was their duty to obey any law adopted by due procedure, and 60 per cent said that a person should obey the law even if it goes against his/her conscience; otherwise the law would lose its meaning. These findings clearly indicate that while there is a consensus among both children and adults regarding the need to obey the law, it exists alongside the notion that disobedience can be justified. A major breakthrough, both from a theoretical and empirical perspective, is marked by the study conducted by Tyler (1990) on ‘Why People Obey the Law.’

The Chicago study was designed to measure legitimacy and compliance and focused on six laws chosen to represent the range of laws that people deal with in their everyday life. The study that is based on self reporting and examines the following laws: making enough noise to disturb neighbours, littering, driving a car while intoxicated, driving faster than permitted, and taking inexpensive items from stores without paying. Respondents were most likely to say that they have committed less serious offenses, such as parking illegally (51 per cent), or speeding (62 per cent). Only a few indicated that they have stolen items from a store (three per cent). Between 84-96 per cent of the respondents indicated that breaking each of the six laws mentioned in the questionnaire was very wrong. Respondents viewed breaking the law as a violation of their personal morality.

The Chicago study also examined the relationship between the legitimacy of the law and compliance. A significant relationship was found between legitimacy and compliance, suggesting that legitimacy is related to compliance. Those who regard legal authorities as having greater legitimacy were found to be more likely to obey the law in their everyday lives. Generally, a linear relationship was found between legitimacy and compliance: as legitimacy increases, so does compliance (Tyler 1990).

Another important contribution of Tyler’s (1990) study was the distinction between procedural and distributive justice. Theories of distributive justice suggest that people focus on the fairness of the outcomes of the legal procedures. Procedural justice, on the other hand, is concerned with the fairness of the procedure itself regardless of the outcome. An attempt was made to test the links between these two factors and compliance. By doing so through a causal model, no direct path was found from judgment about the experience to compliance. However, judgment about the fairness of the procedures influenced views about legitimacy, which in turn influenced compliance.

2. ILLEGALISM IN ISRAELI SOCIETY

Israeli society can be seen as a natural laboratory for the empirical study of various theoretical issues surrounding legal disobedience and/or civil disobedience. Certain events of the last