

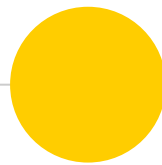
**Is there a duty to  
obey the law?**

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# Contents

- What is political obligation about?
- Philosophical anarchism
- Some moral sources of political obligations

1. What is political obligation about?



## The grudge informer case:

In 1944, a woman denounced her husband to the authorities for insulting remarks he had made about Hitler. She wanted to get rid of him because she was having an affair. The wife was under no legal duty to report his acts, though what he had said was apparently in violation of statutes making it illegal to make statements detrimental to the government of the Third Reich. The husband was arrested and sentenced to death, though he was not executed but was sent to the front.


In 1949 the wife was prosecuted in a West German court for an offence of illegally depriving a person of his freedom. This was punishable as a crime under the German Criminal Code of 1871 which had remained in force continuously since its enactment. The wife pleaded that she had acted in accordance with the law – the statutes—and so had not committed any crime.

But the Court of Appeal found her guilty of the offence of deprivation of liberty, because the statutes were “contrary to the sound conscience and sense of justice of all decent human beings.”

Two Options:

The Court of Appeal: Rejecting the validity of the Nazi's legal system

Hart: Accepting the validity of the Nazi's legal system while rejecting the obligation to obey the law



## **A distinction**

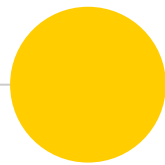
- complying with the law

Doing what the law commands

- obeying the law

Doing what the law commands, because the law commands it

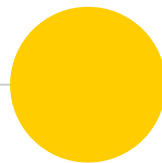
## 2. Philosophical anarchism





Disobedience, in the eyes of anyone  
who has read history, is man's original  
virtue.

——Oscar Wilde



## **Not such an obligation?**

- political anarchism
- philosophical anarchism: the incompatibility of moral autonomy and political authority

**A story of a tour company:**

- Between “justifying a belief”

And

- “justifying exercising a belief through coercive power”

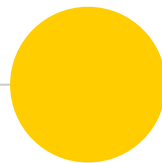
I have recently been travelling in Peru with a particular tour company and had a wonderful time. The tour company is, in all ways, wonderful. It delivers fantastic travel experiences to its customers at very reasonable prices, it gives some of its profits to charity, it treats its employees very well, etc. . . . There can be no doubt that anyone who wants to go to Peru should pick this tour company.

You have been planning on making a trip to Peru yourself, indeed it has been a central ambition of yours for many years, and you now have the time and money to make the trip. What you have most reason to do—the justified choice given your plans and options—is become a customer of this tour company. Suppose, before you have made any firm decisions about your trip, the tour company in question demands that you become its customer and go on the same trip to Peru that I did. When you refuse, it claims the moral right to make you its customer, and warns that it will coercively enforce this moral right if it must.

## **Philosophical Anarchism**

- Legitimacy: moral right to rule
- Justification of a state: general quality or virtues of a state

### 3. Moral Sources of Political Obligation



# The Death of Socrates

- Gratitude
- Consent
- Fair play
- A utilitarian reasoning

## **Moral Sources of Political Obligation**

- Voluntarism
- Involuntarism



# Voluntarism

- Consent:

factual; hypothetical; voting

- Promise:

bylaws

# Involuntarism

- Natural Duty: Kantian;
- Associative Obligation: kinship; ties; bonds; citizenship
- Fair play

## **In A Reasonably Just Polity:**

- Civil Disobedience: a public, nonviolent, conscientious yet *political* act contrary to law
- Conscientious refusal: noncompliance with a more or less direct legal injunction or administrative order, not necessarily a political act.

# **What about An Unjust Polity?**

- Antigone's Tragedy