Recap

**Necessary relationship between existence of law and moral reason to adhere (obey)?**

* Generic prima facie obligation – always there but can be overridden by other considerations
  + What is law?
    - don’t you have to answer that to know if there is a generic duty to obey the law?
* Exercise to try to understand the project: What is a promise? Don’t you have to know that to know whether there is a generic prima facie duty to keep promises?
  + Reasonable reliance as the reason for a duty to keep your promises? Probably not the reason for a duty. It would only exist sometimes when there is a promise, rather than always.
* “The law is moral consequences of legal events” – there would be a definition of law that would create a generic duty to obey the law
  + or Law exists only where there is a moral duty of obedience?
    - Most likely not where we would go – hard to encompass “unjust laws” or “laws of bad moral content”

Future discussions:

* Duty to obey laws of a democracy
* Duty to obey law of a “just state”

**Theories for generating a duty to obey law – what we have done so far**

* Gratitude – government gives benefits, thus obey law to show gratitude
  + Even when the benefit is thrust upon you without you asking for it explicitly
  + we were not impressed by this argument
* Duty of fair play – duty to obey because other people have obeyed and you got benefits as a result (even though you did not ask for them)
  + what is the duty of fair play? Does it exist at all?
    - duty of fair play: a group of people have made sacrifices that brought about a benefit that you got (but did not consent to getting) – so you now have a duty to do your part
    - some questions
    - is it necessary for the duty that your failure to do your part will frustrate the project?
      * if so how is this different from a consequentialist duty?
        + because you need receipt of benefits to trigger it (not true of duty to bring about good consequences)
        + because this duty may well override duty to bring about good consequences elsewhere.
  + Does this duty exist at all?
    - **contingent moral obligation** (obligation due to some contingent event – eg promise or reception of some benefit) vs. **natural moral obligation** (obligation by virtue of being a rational being and/or being human)
      * some would deny that receiving benefits w/o consent could bring about a duty
      * must be consented to if not a natural duty
    - May only exist where failure to obey frustrates the expectations and purposes of the groups. Does this make it a straight on consequentialist argument? Duty to avoid bad consequences?
    - Seems like we can’t divorce this duty from consent, gratitude, and consequentialist arguments. Does this mean that the duty of fair play is not independent of these? Does this mean it doesn’t truly exist at all?
  + If it exists, does it lead to duty to obey the law?
    - People engaging in forbearances in obeying law may not confer any benefit on you, and thus generate no duty to obey on you even if there is a duty of fair play
      * Failure to obey may not necessarily frustrate anything.
      * e.g. other people abiding by law prohibiting oral sex did nothing good for you so you have not duty to obey it
      * NOTE: but someone might say that the fact that other people suspended their judgment and obeyed laws that the might have thought was bad (including the oral sex law) in general produced a benefit that you have a gotten, which means you should do your part under duty of fail play
      * note that this suspension of judgment argument might work for a consequentialist argument for a duty to obey too

Today’s Discussion

**Promise**

* Does law only exist where there is consent?
  + Doesn’t seem like it, unless we are arguing that law absent consent is not in fact law (so law of a dictator would potentially not be law)
  + Maybe explicit consent to obey the law could create a duty.
    - What about immigrants obtaining citizenship? When they take an oath or make a promise to obey the law, are they really promising to obey the law? Is it binding?
      * Seems like a contract of adhesion: immigrant doesn’t get much choice in the promise – can’t bargain with the government.
        + Maybe doesn’t matter: you choose to immigrate and could choose not to immigrate, assuming you are not a refugee or asylum seeker.
        + Duty is only prima facie anyway.
      * What about lack of knowledge? What if the person isn’t aware of the scope of the promise being made? Duty to obey not only existing laws but also future laws.
      * Assuming the person knows exactly what the promise to obey the law means, is there still no moral obligation to obey?
        + can I actually create a duty (even a prima facie duty) to do whatever you say simply by promising to do what you say?

if you say torture a puppy would I really have a prima facie duty to torture a puppy?

this is tied to the question of whether there is really a duty to keep your promises

* + - Is there implicitly no real obligation to obey, even with consent, because we realize when me make the promise to obey, it can be overridden by other considerations?
      * Weight seems the relevant factor. The promise would still create the prima facie duty and the duty would remain, assuming none of the overriding factors are present simultaneously with the act or forbearance of obeying the law.
  + Implicit promise/consent
    - By virtue of remaining and accepting benefits, you accept the duty to obey?
      * Would have to assume that there is an option to leave. Doesn’t seem there is one.
    - By virtue of voting, you promise to obey the law via consent?
      * Would only work for a democracy or other government system in which voting is used and consent of the governed matters.
      * What about abstaining from voting? Obligation to obey when you didn’t partake in the process?
        + How about if you were being voted a slave and you voted against it. By virtue of voting, have you consented?
        + Does obligation to obey come from virtue of voting or ability to vote? Maybe neither works to create the duty.