



## Mains Practice Question

**Q.** "Obeying unjust laws is itself unethical." Critically examine the ethics of legal obedience and moral resistance. **(150 words)**

06 Feb, 2025 GS Paper 4 Theoretical Questions

### Approach

- Introduce the answer by justifying the argument mentioned in the question.
- Give Arguments Supporting Moral Resistance to Unjust Laws
- Delve into the Arguments for Legal Obedience Despite Unjust Laws
- Suggest Measures for Balancing Legal Obedience and Moral Resistance
- Conclude suitably.

### Introduction

Laws are **intended to uphold justice**, but history shows that legal systems have sometimes perpetuated **oppression**, such as **apartheid in South Africa**. This raises an ethical dilemma about whether individuals should obey unjust laws or resist them on moral grounds.

### Body

#### Arguments Supporting Moral Resistance to Unjust Laws

- **Primacy of Justice Over Legalism:** Ethical theories like **John Rawls' Theory of Justice** emphasize fairness as the core of governance. Laws violating fairness (e.g., **caste-based discrimination**) lack legitimacy.
  - **Example: Mahatma Gandhi's Civil Disobedience Movement** challenged colonial laws, asserting that unjust laws such as salt tax must be opposed for the greater moral good.
- **Unjust Laws Undermine Democratic Value:** In a democracy, legal obedience should **be contingent on justice**. Laws that suppress dissent or human rights (e.g., emergency laws used for political suppression) should be questioned.
  - **Example:** The misuse of preventive detention laws like the **Maintenance of Internal Security Act (MISA) during the Emergency (1975-77)** led to widespread protests by civil society, journalists, and political leaders, exemplifying moral resistance to laws perceived as unjust and oppressive
- **Moral Conscience Supersedes Legal Authority:** Ethical responsibility transcends legal constraints when laws contradict fundamental rights and human dignity.
  - **Example:** Ambedkar's leadership in the **"Mahad Satyagraha" of 1927**, where he and his followers defied local laws prohibiting Dalits from using public water tanks.

#### Arguments for Legal Obedience Despite Unjust Laws

- **Rule of Law:** Legal obedience ensures the stability and functioning of society. The rule of law is fundamental for maintaining order, preventing anarchy, and **ensuring that society operates predictably**.

- Disobeying laws, even if perceived as unjust, could lead to chaos and undermine societal cohesion.
- **Legal Reforms Through Institutions:** Legal systems are designed to evolve through established mechanisms, like the judiciary and legislature.
  - **Disobedience of the law might prematurely undermine these institutional processes** and delay necessary legal reforms. Engaging in these institutions offers a more sustainable method for justice.
- **Avoiding the "Slippery Slope" of Personal Morality:** If everyone were to choose which laws to obey based on personal morality, it could lead to inconsistent application of justice.
  - It could create a society where **individuals act based on subjective interpretations** of right and wrong, undermining legal consistency.
  - **Example: Taxation laws may seem unfair to certain groups**, but allowing selective non-compliance would disrupt economic stability and governance

### Balancing Legal Obedience and Moral Resistance

- **Non-Violent Civil Disobedience:** Ethical resistance should avoid violence and destruction while challenging unjust laws.
  - **Example:** Mahatma Gandhi's **Salt Satyagraha (1930)** was a peaceful yet powerful method of resisting colonial oppression.
- **Utilizing Democratic and Legal Mechanisms:** Instead of direct defiance, individuals can use judicial review, **public interest litigation (PIL)**, and legislative advocacy to change unjust laws.
  - **Example: Kesavananda Bharati Case (1973)** in India led to the **Basic Structure Doctrine**, preventing arbitrary amendments to the Constitution.
- **Engaging in Constructive Dialogue with Authorities:** Rather than outright defiance, engaging policymakers and administrators through consultations can lead to ethical governance.
  - **Example: Right to Information (RTI) Act (2005)** emerged from sustained advocacy and dialogue with lawmakers rather than complete defiance of existing secrecy laws.

### Conclusion

While obeying unjust laws blindly is ethically questionable, absolute defiance can lead to disorder. The ideal approach is **civil disobedience guided by justice, non-violence, and constitutional means**. As Gandhi said, "An unjust law is itself a species of violence. Arrest for its breach is more so." Hence, legal obedience must always be evaluated in light of moral conscience and societal well-being.