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AN APPRAISAL OF LEFKOWTZ'S NOTION OF MORAL OBLIGATION TO OBEY THE LAW

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Abstract
Lefkowitz claims that law-subjects are morally obligated to obey the law of the state because it is their natural duty not only to respect the right of others, but also to participate in and support states whose state of affairs, foster the respect for these rights. The law by virtue of citizens' participation becomes a product of contract on what constitutes citizens' basic moral rights and duties; and citizens are by virtue of such contract obligated to obey such laws. However, Lefkowitz did not completely address the puzzle bewildering the moral obligation to obey the law, because his contractualist position presents the difficulty bordering on the extent at which non-participants of a contract-based law are morally obligated to obey such law to which they are oblivious of. Nonetheless, this paper rejects the anarchists position that denies any moral ground for an obligation to obey the law; and defends that establishing prima facie basis for an obligation to obey the law is possible and justifiable only if it appeals to the consciences of the subjects on whom such laws tend to morally bind. Thus, the recommendation that a more conscience-compelling basis for obeying the law lies in the conception of the 'telos' of the law as being spirited towards the consolidation (for the common good) of 'solidarity'— a construct bespeaking of an ontological condition of interdependence in which law-subjects are placed. For a good appraisal of Lefkowitz, the qualitative research design, with the historical, analytical and evaluative methods were adopted.
Keywords: Appraisal, Morality, Obligation, Obedience, Law, Lefkowitz,

Introduction

The attempt to project a moral basis for an obligation to obey the law has been the preoccupation of philosophers with bias in jurisprudence, social and political philosophy and ethics. While pessimist and anarchists like Joseph Raz had

denied any moral ground for an obligation to obey the law, optimist in the same field of endeavour have been affirmative, projecting and anchoring this said basis for a moral obligation to obey the law on concepts such as relational-role, benefits, consent, fair play, etc. It is therefore against this backdrop and the conviction that there exists a nexus between law and morality, especially in the area of establishing a moral ground to obey the law even when sanctions fail, that informed the decision to appraise Lefkowitz's position which projects a contractualist perspective to the discourse.

Be that as it may, the problem prevalent in Lefkowitz is that though his theory of contract-based moral basis for an obligation to obey the law created a link between law and morality, its provisions failed to project a strong moral ground for an obligation to obey the law by law-subjects of the said contract-based society, as non-participants in the contractualist scheme are left in the dark as to whether they are morally obligated to obey a law to which they never participated in its enactment.

However, the thesis this paper argues is that establishing *prima facie* bases for an obligation to obey the law is possible, but that such moral bases can be justifiably binding only if they appeal to the consciences of the subjects on whom such a law tends to morally bind. Suffice it to say then that the projection of a dimension which do not merely adopt the contract-based perspective but also counsels that a more effective moral basis for compliance with the law be found in the purpose of the law as a tool for maintaining social order and consolidating on solidarity- a socio-political construct that refers to an existential condition in which law subjects are placed. Standing on this, the question is: On what bases should a law-subject comply with the terms/codes of the law? On what bases is a law justifiable, and so, commands total compliance from the law-subjects?

This work shall adopt the qualitative research design, hence the historical, analytical and evaluative methods. Based on this, the study shall display both a theoretical and practical aspects of significance. On a theoretical note, it demonstrates the nexus between law and morality; in such a way that morality provides good foundation upon which valid laws are built. It also serves as a point of reference for those who seek to embark on research in the area of law and morality. On a practical note, it provides modalities for law makers who wish to give the law they enact a moral force, to enable it command obedience. It is believed that stakeholders, responsible for enacting, adjudicating and enforcing laws, pay attention to the moral dimensions of the law to which they are custodians. By so doing, obedience to the law becomes a moral duty to law subjects, rather than being conceived as actions perpetrated out of fear of

sanctions. Going by this, the expectation from this paper is an exposure of the weakness in Lefkowitz's position, projection of a view that neither accepts the deficiencies in his view nor accommodate the anarchist position, but rather recommends that every attempt to articulate a moral basis for obligation to obey the law must incorporate modalities that arouse the conscience of such law-subject to obedience.

This paper is structured in sections to include an 'abstract' of a brief summary of the content of the paper; an 'introduction' that elaborates more, the contents of the abstract; the 'key words' containing few words/terms conveying the central message of the paper; the 'Pre-Lefkowitzian Attempts to Provide a basis for a Moral Obligation to Obey the Law' which presents various attempts by philosophers before Lefkowitz to articulate a theoretical framework that demonstrates a basis for an obligation to obey the law; the 'Lefkowitz's Approach' which exposes his own version of theory of moral obligation to obey the law, displaying its ethical foundation, his notion of law and authority, his perspective to the issue of moral obligation to obey the law; the 'Appraisal' part which displays the ethical implication of Lefkowitz's position, an 'Evaluation' that exposes the strength and weakness of his position and finally, a 'Conclusion' that briefly recaps the paper summarily.

Pre-Lefkowitzian Attempts to Provide Basis for Moral Obligation to Obeying Laws

The search for the basis of a moral obligation to obey laws as an academic endeavour is not peculiar to only Lefkowitz. Prior to him, philosophers, belonging to different theoretical camps, have theorized and made speculations in an attempt to provide moral bases for obeying laws. It therefore becomes necessary to take a cursory look at these different approaches to the subject matter in an attempt to explore the views of philosophers before Lefkowitz as a way of ascertaining the origin and nature of the problems related with the subject matter. Each philosopher would be considered from the camps of relational role approach, benefit approach, common good approach, consent approach, fair-play approach and the philosophical anarchist approach.

Confucius (551BC-479BC), in the *Analect*, approached the problem of finding a basis for a moral obligation to obey laws from a relational-role, or associative duty point of view. The relational-role duty approach to the problem of finding a basis for a moral obligation to obey the law is anchored on the fact that agents, by virtue of their occupying certain roles in certain socially salient relationship; such as siblings, friends or parents; are morally obligated to perform the duties

accruing to such roles; and such duties are determined by the forms and nature of such relationship.

Confucius' relational role duty approach to the question of a moral obligation to obey the law is coated in his concept of 'filial piety'. He holds that 'filial piety' induces in the ruler and the ruled, a sense of duty. Each person in the society has a special place in the society, which imposes on him/her, a certain kind of duty to fulfil; inferred from the forms of relationships that exist among the people. He therefore sets up five principal relationships in which most people are involved. These relationships, he referred to as the 'duties of universal obligation'. They are "those between rulers and subjects; between father and son; between husbands and wives; between elder brothers and younger brothers and those in the intercourse between friends" (Brown, 1946). All, except the last, involve the authority of one person over another. Power and the right to rule belong to the superior over subordinates. That is to say that the subjects have the duty and moral obligation to show loyalty and obedience to the ruler and the values he enacts; in the same way, the ruler owes the duty of benevolence and care to the subjects. The government was regarded as an extension of the family in many ways by Confucius. The ruler and his officials were referred to as the 'parents of the people'. Subjects (people/children) owe the same loyalty and obedience to their rulers and enacted rules, the same way they owe it to the members of their families. On the other hand, the ruler has duties to fulfil as well. In this regard, Confucius writes: "What does the Shu Chang say of filial piety? – You are filial; you discharge your brotherly duties. This equally is displayed in government; this then also constitutes the exercise of government" (Confucius, 2004). Confucius' views radiate great plausibility especially in societies where customs, traditions and cultural practices thrive. However, the concept of 'filial piety' (inclination for duty) does not provide a strong ground for a moral obligation to obey the law as some members of the society may not be inclined to observe their duties. Also, there is no guarantee that even when the subjects perform their duty of obedience to the law; the rulers will do theirs of providing for their good. In such situations, the subjects may be inclined to disobey such laws.

Socrates (470 BC-399BC) in one of Plato's dialogues *Crito,* opts for a moral obligation to obey the law on the basis of 'benefit' and 'consent'. Even when offered the option of an easy escape given the fact that he was unjustly condemned to death by Athenian law, Socrates accepted to firmly comply with the death verdict of the law on him. He was of the opinion that since he has enjoyed the good accrued to him by the law; it will be an injustice to the law to reject its unbearable declaration. The law for Socrates had made provisions for his parents to be married, which has made his conception possible. The law had

provided that his parents gave him shelter, clothing, food, good health, protection and above all, education. "Well have you any against the law which deals with children upbringing and education, such as you had yourself? Are you not grateful to those of us laws which were instituted for this end, for requiring your father to give you a cultural and physical education?" (Plato, 1954)

Crito, Socrates interlocutor had presented a challenging argument for a morally permissible basis to disobey the Athenian law's death sentence on Socrates on the basis of parental responsibility. He argues thus:

> It seems to me that you are letting your sons down too. You have it in your power to finish their bringing-up and education, and instead of that, you are proposing to go off and desert them, and so far as you are concerned they will have to take their chance. And what sort of chance are they likely to get? The sort of thing that usually happens to orphans when they lose their parent. Either one ought not to have children at all, or one ought to see their upbringing and education through to the end (Plato, 1954)

Crito may have provided a strong ground for Socrates to accept the option of escaping; hence, disobeying the declaration of death sentence against him by the law. However, Socrates disagrees with Crito's logic on the basis that it will amount to causing injury to the law "If we leave this place without first persuading the state to let us go, are we or are we not doing an injury" (Plato, 1954). 'Injury' in this sense implies 'injustice' to the law; and it is against this backdrop that Socrates opined that if one does not reject the positivity accrued to him by the law; it will be injustice when such a person rejects the negativities such laws bring to him. He argues that a better way of registering one's dissatisfactions with the dictates of the law is by denouncing one's citizenships of the society and leaving such society.

> You had seventy years in which you could have left the country, if you were not satisfied with us or felt that the agreements were unfair. You did not choose Sparta or Crete – your favorite models of good government or any other Greek or foreign state. You could not have absented yourself from the city less if you had been lame or blind or descript in some other way. It is quite obvious that you stand by yourself above all other Athenians in your affection for this city and for its laws. Who would care for a city without laws? And now, after all this, are you not going to stand by your agreement? .... We invite you to consider what good you will do to

> yourself or your friend if you commit this breach of faith and stain your conscience (Plato, 1954)

It then implies from the above excerpt that the continuous acceptance of citizenship of a country necessarily implies agreement with the declaration of its laws; and by extension, the basis for moral obligation to obey such laws. Socrates seems to create a reciprocal relationship between benefit and gratitude in such a way that one who receives a benefit from a societal law of whom he or she is a citizen, is morally obligated to show gratitude to such laws through obedience. However, the reception of a benefit of which one may have no need for, does not serve as a strong basis for a general moral obligation to obey all laws, as Lefkowitz will later argue that such a benefit is a mare imposition.

Thomas Aquinas (1225-1274**)** anchored his basis for a moral obligation to obey the law on the common good. He began by conceiving law as "nothing else but a dictate of practical reason, emanating from the ruler who governs a perfect community" (Aquinas, 1947). Aquinas conceives the law as a product of reason whose dictates and proclamations must first emanate from a good leader towards the realization of a perfect community. A perfect community in this sense is a "community organized for the happiness of its members" (Njoku, 2006). The purpose of the law is simply for the attainment of the common good and happiness of members of the society. Practical reason gives directions to the good leader on what certifies as a common good and happiness. Aquinas argues that a valid law must be promulgated and the process of making a law must be a combined and corporative effort that must involve those for whom the law is meant. However, in a situation where the population is too large, such that the whole citizens may not be able to gather due to inadequacy of space or logistics, it is permitted that the people appoint representatives who as public persons, have care for the good of the people and not for their selfish good.

> To realize the reason or end of law is the responsibility of members of the community and their leaders, that is, the responsibility of persons whose end it is. Thus, the establishment of law is a corporative effort, that is, the work of the whole community or a public who represents and has care for the community (Aquinas, 1947)

From the foregoing, Aquinas established four conditions as elements which make up his concept of law; firstly, it must be a product of practical reason; secondly, it must be promulgated; thirdly, its promulgators must be good and fourthly, it must be directed towards the common good of the community. Subjects of any law which possesses these four attributes, are then morally obligated to obey the contents of such laws. They "have the power of binding in

conscience" and as such, "laws are said to be just, both from the end, when, to wit they are ordained to the common good, - and from their author, that is to say, when the law that is made does not exceed the power of the lawgiver, -- and from their laid on the subjects according to an equality of proportion and with a view to the common good" (Aquinas, 1947) of the citizens. But then, it is not always the case that laws are made for the sake of the common good, some lawmakers make laws for selfish reasons and to the detriment of the citizenry. In fact, in some cases, we find the wrong people making laws for the people. In such cases, there is then a limitation for a common good basis for a moral obligation to obey the law.

John Locke (1632-1704) offers a consent account of a moral obligation to obey the law. The consent account holds that the basis for a moral obligation to obey the law stems from the permission of the people. Consents are either explicit or tacit; they are explicit when they result from the people's conscious and free permission to be governed, but tacit when they are inferred or implied. Locke, in an attempt to offer a consent account of moral obligation to obey the law, toed a different view point from that of Hobbes both on the basis of his notion of the state of nature and status of the lawgiver otherwise known as the sovereign authority. Locke postulates that in the state of nature, there was law (natural law) that regulates lives and possessions of property. The need for a lawgiver and a civil law arises as a result of difficulty in determining neutral and equally applicable standards of punishment for lawbreakers. Also, the need to provide an impartial judge who, in acting, protects the liberty, lives and property of those who lived within. Hence, for Locke, the functions of the law and the law custodians as products of a consensus, are to serve as impartial standard and neutral judges in regulating the activities of men and guaranteeing the protection of their lives, properties and liberty. Locke is of the opinion that the supreme absolute authority should reside in the legislature, as representatives of the majority of the people; and law-subjects by virtue of this permission given to these law-givers are morally obligated to obey the law.

However, noting the difficulty in getting the people to explicitly and willingly offer their consent for a political authority, especially in a modern state made up of people with diverse views, Locke opts for tacit consent as an expression of one's permission to be governed by a particular law. He offered it thus;

> The difficulty is, what to be looked upon as a tacit consent, and how far it binds, i.e how far anyone shall be looked on to have consented, and thereby submitted to any government, where he has made no expression of it at all. And to this I say, that every man, that hath any possession, or

> enjoyment of any part of the dominion of any government, doth thereby gives his tacit consent, and is as far forth obligated to obedience to the laws of that government, during such enjoyment as anyone under it; whether this his possession be of land, to him and heirs forever, or a lodging, only for a week. Or whether it be barely travelling freely on the highway; and in effect, anyone within the territories of that government (Locke, 1962)

The implication of the above is that by virtue of being an occupant of a particular geographical location; or having enjoyed free ownership of properties and other possessions within that same location, automatically becomes morally obligated to obey the laws of such geographical location. The only way not to tacitly consent is to opt for an exit. However, Lefkowtz would not concur with this Lockean view on the basis that they do not meet his three conditions for a genuine consent namely; that the agent must know what he consents to; must know that his actions, inactions or utterances are acts of consent; and must successfully communicate his intention to acquire an obligation to whomever that obligation is owed.

John Rawls (1921-2002) conceives the society as a corporation comprising of equal citizens who freely come together to advance their good. It is on this basis that he anchors his notion of moral obligation to obey the law on the principles of fair play, which for him stipulates that "a person is under an obligation to do his part as specified by the rules of an institution whenever he has voluntarily accepted the benefits of the scheme or has taken advantage of the opportunity it offers to advance his interest provided that this institution is just or fair" (Rawls, 1999). The rationale behind the above basis for obeying the law lies in the fact that Rawls' corporative venture is mutually advantageous in nature; that is to say that every party in the corporation enjoys benefits by virtue of being members of the corporation. Also, this ventures is characterized by rules that help to guarantee its continuous existence; it is these same rules that define its modes of existence. Acceptance of the rule by an individual is basically the individual's contribution in advancing the continuous existence and stability of the mutually advantageous corporation. Disobedience to the rule, is a denial of one's own role; hence, unfair to others who diligently play their own role to ensure the continuous existence of the corporative society. Since we are benefiting from the cooperative efforts of other, it will be fair and just for us to do our own fair share, of which obedience to the rules is an instance.

A major characteristics of a cooperative venture, is its being founded on promises "as an action defined by a public system of rules" (Rawls, 1999). Promises are genuinely made, when they are made consciously, voluntarily in a rational frame

of mind and with a good knowledge of words used in making such promises. It is on this basis, that Rawls argues that promises necessarily incur obligation to keep such promises. This very act of keeping promises is an appropriation of the principles of fidelity which for Rawls is a special case of the principles of fair-play.

> The principle of fidelity is a moral principle, a consequence of the principle of fairness. For suppose that a just practice of promising exists. There in making a promise, that is, in saying the words "I promise to do X" in the appropriate circumstance, one knowingly invokes the rules and accepts the benefits of a just arrangement and so men in the absence of coercive arrangements establish and stabilize their private ventures by giving one another their words (Rawls, 1999)

Lefkowitz would disagree with Rawls on the basis that even though a person in a mutually beneficiary corporative may act imprudently or irrationally if he acts on the mistaken belief that he can do without the benefits provided by the state, or obtain such benefits at a lower cost by some other means than that offered by the state, it is not necessary the case that he acts immorally by doing so.

Joseph Raz (1939), makes a radical case against a moral obligation to obey the law. He denies as against his predecessors, even a moral obligation to obey a just and good law. In his view, an obligation to obey the law "entails a reason to do that which the law requires" (Raz, 1979). He argues that people obey the law not only on the basis that they are obligated to obey the law but sometimes, as a result of some other reasons which has nothing to do with an obligation to obey such law. He further contends that the obligation to obey the law should be a general demand that should sufficiently address every subjects of the law in all circumstances. This means that, citizens, must always, in every given situation and as a matter of moral significance, display obedience to the stipulations of the law, because of the very fact, that such obedience is required by the law. "The search for an obligation to obey the law of a certain country is an inquiry into whether there is a set of true premises which entails that everyone (or every citizen! Every resident) ought always to do as those laws require and which include the fact that those actions are required by law as non-redundant premises" (Raz, 1979). Thus, he insists that even a good law and a just legal system do not, on a moral basis, bind us to obedience. "Thus the general moral quality of the system encourages conformity by being a reason to believe and trust the moral value of each individual law. Again no special obligation to obey the law is involved" (Raz, 1979).

Since in Raz's view, there is no obligation to obey the law; what then should be the attitude of citizens to the law? Raz proposes that the attitude of the citizens to the law should be that of respect. This is because respect for the law, especially a good law is not only a reason to obey the law but also a morally permissible attitude towards the law. "Having no general moral attitude is morally permissible. But there is another option equally permissible: to have respect for the law" (Raz, 1979). Respect for the law could broadly be categorized into two, namely: the primarily cognitive respect and primarily practical respect. The primarily cognitive respect has to do with the practical approach to the law. It could consist of admiration for a good legal system, an acceptance of the nature of the law as guaranteeing the equal rights of citizens and the propensity to recommend such laws for other countries; while the primarily practical attitude of respect is a disposition to obey the law, giving the fact that it is right as a moral principle which is displayed either by being hostile to law-breakers, being satisfied when law breakers are brought to justice, feeling guilt when one breaks the law; thus, subject to individual different approach. Raz further advises that it is morally intolerable to cultivate a complete disposition of moral obligation to legal demand; that "one should instead, encourage an attitude of being generally on guard and always willing and ready to consider the merits of conformity or deviation on a case by case basis with no prior disposition which may bias one's judgment" (Raz, 1979). Lefkowitz would however disagree with Raz by arguing that respect for one' autonomy is compatible with the surrender of the individual judgment constitutive of obedience to authority; hence, citizens are morally obligated to obey the law.

Lefkowitz's Approach: An Ethical Point of Departure

Lefkowitz discovers that questions bordering on the moral obligation to obey the law are moral questions which may not be properly addressed without situating them within an ethical background. Hence, the need to take-off his discourse from an established ethical platform which embodied a description of an ideal ethical personality; and the right form of action such personality ought to indulge in.

In his view, an ideal ethical personality has as its basic ethical constitution, two features-rationality and reasonableness. Rationality as an ethical agent's characteristic entails the capacity to conceive, plan and execute one's personal goal of the good life and the adopting of appropriate means towards achieving such good. "By rational, I mean the power an agent has to organize his own life; a task that includes the evaluation of his end as well as the means to them. In

other words, to be rational is to form and act on a conception of the good life" (Lefkowitz, 2005). To live a rational life is to have the capacity to evaluate the 'pros' and 'cons' of one's plans of actions on their merits and demerits, and decide the best means to adopt in realizing such plan of action. Reasonableness as the second characteristic of adult human beings as ethical personality requires that an ethical agent considers others in the course of pursing their personal ends or goods.

> To put the point slightly more clearly, a person is what I shall call morally reasonable if and only if he is committed to limiting pursuit of the good life when and as necessary to accommodate others who are also rational and reasonable; that is, who also pursue a conception of the good life but are committed to limiting that pursuit in order to accommodate others with the same basic commitments (Lefkowitz, 2005)

The moral personality in the above assertion is conceived from the perspective of a social being who lives and acts amidst other social beings. As a result of his sociable nature, he ought to consider how his actions affect others who also, are required, as moral agents, to demonstrate same reasonableness by reciprocating same act of accommodation. While rationality emphasizes the power to organize and pursue one's goal of the good life, picturing the egoistic dimension of the moral being; reasonableness on the other hand recommends that one displays some level of altruism by considering the good of others in the whole scheme of pursuing one's personal good.

With regards to discussions on the right form of action human beings should adopt as moral agents, Lefkowitz makes allusion to Scalon's ethical postulations where he advances that "an act is wrong if its performance under the circumstances would be disallowed by set of principle for the regulation of behavior that no one could reasonably reject as a basis for informed unforced general agreement" (Scalon, 1998).

The general moral principle of our actions towards others should be on the basis of that which they, as rational beings would not reasonably reject. This implies that moral agents are morally obligated as their natural duty to treat others in ways that they would not reasonably reject, or such that it is not reasonable to reject not being treated these ways. These ways of treating others in such a way that they will not reasonably reject is according to Lefkowitz, reflected in the agent's basic moral rights. In his words: "I refer to these ways of being treated as an agent's basic moral rights; an agent's natural duty logically correlates to other agents' basic moral rights" (Lefkowitz, 2003).

The above claim is understood against the backdrop that respect for the moral rights of individuals rest on the understanding of these rights as entitlements to certain conditions such as freedom of expression, conscience, movement and association; right to life, to vote, to education and personal dignity.

Lefkowitz on Law and Authority

Law in Lefkowtz's view is in pursuance of the above ethical prescription, a code of conduct which addresses its subjects in ways that they reasonably will not reject. It serves as a point of reference regarding what their moral rights and duties are, and the extent at which they can make claims to such moral rights. To respect the basic moral rights of others in a society will necessitate acting collectively as a group. Laws in this respect, serve the function of designating the form of institution that would not only determine these moral rights and duties but also ensure that they are protected. He says:

> Respect for others' basic moral rights will often require agents to act collectively….what I shall refer to as morally necessary collective action. Laws in turn serve to specify the design of these institutions, spelling out both the state of affairs to be realized by collective action and the form that each individual contribution to the collective enterprise ought to take (Lefkowtz, 2005)

These claims in the above assertion could raise certain difficulties bordering on political authority; that is to say, who should make such laws? What form should the procedure for making such laws take? What is the best means to ensure a state of affair that guarantees individuals' basic moral rights? On what moral basis, if there is any, should one obey these laws?

Lefkowitz, taking cognizance of the tendency for disagreement among moral agents on the above issues, notes that a proper solution lies in a moral contractualist institution with an appropriate means of resolving these disagreements that will eventually culminate in a state of affair that would guarantee less rights violation than will occur in the absence of a resolution; and in whose implementation and operations will not be reasonably rejected. Such a state "exercises its authority to settle for citizens the right and duties that characterize their relationship to one another *qua* citizen" (Lefkowtz, 2003). A modern state that reliably reflects these mentioned conditions in Lefkowitz's views is a liberal-democratic state. By a liberal state he means a state that "restricts its pursuit of the ends that justify its existence to those means that are consistent with respect for the individual rights of its subjects" (Lefkowtz, 2003).

The liberalness of a state entails that its *modus operandi* ensures the respect for the rights of its citizens, while the democratic requirement of such states entails that it enshrines in its procedures for enacting laws, the principle of one man one vote; and equal opportunity to make contributions regarding the design of these moral contractualist institutions.

Lefkowitz offers two arguments in support of democratic procedure as a necessity for political authority. One of the arguments is that a lot of the citizens may claim moral expertise to what they think cannot be reasonably rejected; which may preferably require a vote rather than casting lot to determine which idea to adopt. Secondly, it gives the individual the opportunity to exercise his capacity for moral judgment.

> The second argument I offer to buttress the assertion that a justifiable claim to political authority requires a state to make at least some of its decision democratic is that such conclusion follow from the moral necessity of respect for individuals' exercise of their capacity for moral judgment. Moral agents enjoy their states as such in virtue of two qualities-capacity to lead a worthwhile way of life and the capacity to act only on principle that suitable motivated moral agents could not reasonably reject (Lefkowitz, 2003).

The only state of affair that guarantees equal say in the determination of those acts that rational human beings cannot reasonably reject is a state characterized by liberalness and democracy. Elsewhere, Lefkowitz adds a third condition-effectiveness meaning that for a state to claim political authority, it should be effective, and by effectiveness he means that it is able to reliably enforce its settlements of moral disputes and thereby provide its subjects with assurance that others will also contribute to the various collective schemes constitutive of the state to make it rational for each individual to do so" (Lefkowitz, 2005).

The condition of effectiveness elevates the state to the level of being permitted to enforce morality. Once a state meets the conditions of democracy, liberalness and effectiveness, such a state undoubtedly enjoys political authority with its attending correlate moral duty to obey its laws.

On the Moral Obligation to Obey the Law

The question of a moral obligation to obey the law is a question that has to do with the moral status of obedience and disobedience to the law. It is rendered thus; are we under obligation always and in all circumstances to obey the law, just because it is demanded of us by the law? Lefkowitz gives a version of this

question thus; "obviously if there is to be a moral duty to obey the law, then the state's authority to settle for its subjects what they ought to do must provide citizens with a moral and not simply prudential reason to obey the law" (Lefkowitz, 2003). He affirms that for a political authority to be legitimate, its laws should not only be prudentially, but also morally binding; meaning that its citizens comply not out of fear of sanctions but as a result of a moral indebtedness to do so. He therefore argued from a moral contractualist perspective, using two arguments (1) from the respect for basic moral rights of individual, and (2) from participation as characteristic of a democratic state.

On the basis of respect for the basic right of others, Lefkowitz argues that citizens as moral agents enjoy certain basic moral rights which impose on others, the duty to treat them as designated by those rights. By implication, moral agents should not only refrain from actions that will violate these rights but should also support institutions that will help to enhance these rights.

> So understand, respect for others' right requires not only that an individual refrain from acts that violate these rights, but also that she contributes to the creation and/ or maintenance of a state of affair in which all securely enjoy these rights. This understanding of the duties correlate to basic moral rights as encompassing both negative duties of forbearance and positive duties of provision is essential for a justification of the duty to obey the law (Lefkowitz, 2006)

The support for the creation of an institution that enhances rights is a necessary positive correlate of moral agent's natural duty which forms the moral basis for obeying the law; for if moral agents are only restricted to the negative correlate of refraining from violating others' rights, moral agents may fulfil these duties without supporting just political institution. However, "in contrast, if the duties correlative to people's basic moral rights include positive duties of provision, and if as a matter of fact, these duties can be met only through support for political institutions, then the need to respect others' basic moral rights provides a compelling basis for the duty to obey the law" (Lefkowitz, 2006).

From the perspective of participation, Lefkowitz notes that disagreement over the scope of moral agent's basic rights and duties, their specific forms and how burdens and benefits will be distributed, is inevitable. And since no moral agent enjoys the monopoly and indispensability of moral expertise in decision making regarding issues bordering on moral rights, it becomes necessary for all moral agents to be equally entitled to participate in the process of decision making. Citizens become parts and parcels of the law-making-process. As a consequence, they become morally obligated to obey such laws since it is a product of a

deliberation which they participated in, on an atmosphere of equality. "I argue on the basis of reasonable rejection moral contractualist for a natural duty of fairness that bridges the gap between an individual's duty to see to it that morally necessary contractualist institutions operate and his having a duty to participate in them" (Lefkowitz, 2003). Participation in a morally necessary contractualist institution, characterized by liberalness, democracy and efficiency is not just a natural duty, but a moral basis to obey the law. Critically, through his moral contractualist approach, Lefkowitz established a nexus between law and morality in such a way that morality provides the foundation for law; by extension, he offered participants in a moral contractualist, liberal and democratic society, a moral ground to obey the law.

Ethical Implications of Lefkowitz's View

Lefkowitz in his views projects answers to some dilemmas that confront the human person as an ethical being who acts amidst other human persons. These difficulties are subject matters within the academic *cum* theoretical terrain of moral philosophers who seek to attempt solutions to puzzles bordering on human conduct. They do "not only ask: what is the right course of action for this man in these circumstances? But rather: what is the good life for all men?" Popkin and Stroll, 1975). Man is confronted with the challenge of adopting a suitable standard of action that will guide his conduct; as a member of the society, he does not know whether he should be egoistic; that is seek only his own good, pleasure and happiness; or altruistic─ be concerned with the good, happiness and pleasure of others.

Lefkowitz advances the view that reconciles the altruistic-egoistic extremes. This he does by first conceiving the moral agent as being composed of rationality and reasonableness. For him, even while organizing and pursuing one's good as a rational being, one should be reasonable enough to accommodate others by considering their good in his whole scheme of action. Hence the answer to the question; 'how ought one to act towards others?' is that one should act towards others in ways that they will not reasonably reject. Reasonableness as an integral feature of man's conduct is in this context understood against the backdrop of man's condition as a being whose existence actualizes its significance amidst other beings. Suffice it to say that "a normal and average human being clines to relate with fellow human beings because such is not complete in himself" (Oluwagbemi-Jacob, 2014). In advancing one's own good, while relating with others, one should not jettison the good of others. What exactly does this action that is not reasonably rejected consist in? Lefkowitz (2005) noted that they are

derived from the basic moral rights of individuals. "I refer to these ways of being treated as an agent's basic moral rights; an agent's natural duty logically correlates to other agents' basic moral rights" (Lefkowitz, 2003). Morality requires that the basic rights of every individual are respected; hence moral agents should desist from actions which have the consequence of inflicting both bodily and psychological harms on others.

Closely related to the above dilemma that confronts man with respect to his conduct is that which has to do with his attitude towards laws made to ensure peaceful co- existence among members of the society. This difficulty becomes buttressed in situations where threats of sanctions do not provide sufficient grounds for compliance with the law. Sometimes, individuals do not deem it fit to comply with the law, just because it is the law. This could result from the absence of the watching eyes of law enforcement agents who could press charges against the acting agent; or such an individual cannot help but disobey the law, damn its consequence and face its sanctions. It could also result from such a person's standing in the society, as a figure who is 'above the law'. However, individuals in the above situations may not be totally free from the verdicts of their consciences. Hence, the 'ball' then falls in the court of the conscience as the judge that must weigh the moral strength and merits of moral reasons and grounds for actions; before compelling such an individual to act either in compliance or in non- compliance with the law. Njoku (2006) elucidates this situation thus:

> In the final analysis, the basic reason for compliance and non-compliance of the law resides in people's conscience. The positing of law by a source that claims legitimate authority is necessary for soliciting obedience but not sufficient to elicit a general moral obedience. No matter how valid the rules of law have been rigorously established, our conscience has a final say. In its basic foundation, law has to face the tribunal of well- informed conscience for its ultimate validity and justice

It is the search for this moral reason or ground that has pre- occupied the thoughts of jurists and moral philosophers. Leftkowitz approaches this contentious issue by locating the moral basis for obeying the law in our natural moral duty of respect for the moral right of others which necessitates acting collectively. The law is a product of a consensus and a contract resulting from an inevitable disagreement regarding the nature and limits of these moral rights of others and its attending moral duties. Hence, obedience to the law is an expression of support for the resolutions (in the form of a law) of a state whose state of affair fosters respect for the moral right of its citizens.

Laws in this context are rules, regulations and standards reached via a democratic procedure in a moral contractualist institution. It morally binds citizens to obedience on the basis that directly or indirectly, by virtue of their participation, they were parts and parcels of the decision-making process that results in the resolution. This resolution, which is the law, delineates what individual moral rights should be, its attending correlate— moral duty; what constitutes the limits of these moral rights and natural duties; what form the state authority would take and how burdens and benefit ought to be distributed.

Evaluation

Lefkowitz presents a view that radiates some level of applicability; however, it may not be entirely free from certain limitations. This section therefore sets to dissect Lefkowitz's views with the aim of ascertaining its merits and demerits.

First, Lefkowitz deserves applause for discovering an ethical principle from where his notion of a moral obligation to obey the law was derived. He has argued that morality requires that we treat others in ways they will not reasonably reject. Treating people in ways that they cannot reasonably reject displays some level of convergence with Plato's notion of treating people justly. Plato has argued that treating others justly does not just entail that we say the truth and pay our debts. He gave a contrary case where one acts justly by not paying one's debt. He posits that "everyone would surely say that if a man takes a weapon from a friend when the latter is of sound mind and the friend demands them back when he is mad, one should not give back such things, and the man who gave them back would not be just" (Plato, 1991). It will be unreasonable to return a weapon to a friend who is not mentally healthy just because one ought to pay his debt.

However, it will be reductionistic for Lefkowitz to have noted that these ways people should be treated in ways that they will not reasonably reject are reflected in the basic moral rights of individuals. The problem lies in the fact that there are cases where acting towards people in ways that they cannot reasonably reject will entail violating their basic moral rights. For instance, in the above illustration by Socrates about the debtor whose moral duty requires that he does not violate the lender's moral rights to the possession of his property, acting to respect the basic moral right of the lender would require that the debtor returns the borrowed weapon even when it is obvious that the lender is mad. In such case however, acting towards people in ways that they reasonably cannot reject would require that the debtor does not return the weapon. The problem

therefore lies in reconciling the puzzle that confronts one when there is a conflict between one's moral rights and that which one cannot reasonably reject.

More so, Lefkowitz anchors his moral basis to obey the law on a contract that results from citizens' participation in a moral contractualist institution. This argument seems plausible because it is by participation that the citizens freely contribute towards the good of the state. It is also through participation that the citizen's plights are registered. Be that as it may, non-participants in the scheme may not feel morally obligated to obey the law. In situations such as this, it becomes difficult as to whether non-participants are morally obligated to obey a law emanating from a contract which they were never part of? This difficulty also extends to citizens who out of political apathy, do not participate in the process of voting. This lapse may have resulted from the problematic of appropriating a democratic institution, as one that approximates the conditions for a political authority, whose laws are morally binding. A democratic society operates in accordance to the majority rule principle, hence, does not prioritize the views of the minority, who as a consequence, may not feel morally indebted to law they never favoured. A moral basis to obey the law should be generic; it should provide a moral reason (not prudential) for everyone (the minority and non-participants inclusive) to obey the law. "A generic prima-facie (moral) obligation (expressed in a generic statement) which asserts that everyone who meets a certain description has a prima-facie obligation to perform a certain kind of act whenever he has an opportunity to do so….it is understandable that the question about moral obligation to obey the law is about a generic obligation" (Njoku, 2006). It is a difficulty that deals with providing a moral ground for obeying the law that addresses everyone who is under the jurisdiction of such a law.

In order to address the above articulated theoretical gap, there is therefore the inclination to project a stronger morally compelling basis for compliance with the law that appeals to every particular law-subject (participants and non-participants inclusive). Hence, the need for a shift of concentration from what the law is as a product of either contract, consent, fair-play or relational role to what the law stands for— the purpose of the law which, on this context, is found in the principle of solidarity. This principle of solidarity is both a socio-political and an ethical principle. As a socio-political principle, it depicts the perception of a nature-imposed societal interdependence and the attendant need to sustain such perceived interdependence. As an ethical principle, it entails reaching out to the other with whom one has found to be mutually and interdependently entangled, and with the purpose of ensuring the common good of both the self and the other. Interdependence on this context is an ontological condition of mutual

reliance for support in order to sustain existence. It is "a network of relations involving economic, cultural, political, social and moral categories" (Njoku, 2019). This implies the need for a sense of concern for each other's welfare and the responsibility for ensuring the good of others with whom one finds caught up in same web. Thus, when interdependence is conceived this way, "the correlative response as a moral and social attitude, as a 'virtue' is solidarity" (John Paul II, 1987). Solidarity therefore, is a social and moral disposition that induced the sincere affirmation to commit oneself to the common good on the basis that we are all responsible for the good of every other person. Hence, every theoretical framework on a moral obligation to obey the law, be it relational-role, fair-play, consent or contract based, in one way or the other, shares a common purpose for the law; which is a measure meant to consolidate on the people's existential condition of solidarity. So, one should accept the freedom and constraints, rights and duties imposed and accruing to him by the law on the premises that the law as a tool for maintaining social order, coordinates and aggregates the respective activities and interest of all members of the society towards the attainment of the common good and interest. Hence, solidarity is a "reciprocal and ontological link between all persons of society for the sake of realizing the necessary and cultural function of society" (Njoku, 2019). Thus, in order to consolidate on solidarity which is a 'given' and which explains the purpose of the law, a moral obligation on the part of all is involved and required.

Conclusion

Lefkowitz's notion of moral obligation to obey the law makes a far-reaching contribution to the philosophical endeavour which seeks to establish a nexus between law and morality. With the concept of 'reasonable rejectedness', Lefkowitz establishes a moral principle upon which his notion of law is founded. This implies that laws should be censored by morality, in such a way that laws, which do not reflect the moral rights of citizens, should be abhorred.

Lefkowitz also made effort in offering a solution to the controversial question of providing a moral basis for an obligation to obey the law. As against philosophical anarchist like Joseph Raz, who denied any moral basis for an obligation to obey the law, Lefkowitz demonstrates that apart from the fear of sanctions, there exists a moral basis for citizens to obey the law. However, Lefkowitz's moral basis only applies to, and would only bind to obedience, the consciences of participants of a moral contractualist scheme. Thus, this paper recommends that a more conscience-compelling basis for obeying the law lies in the conception of the *telos* of the law as being spirited towards the consolidation

of solidarity- a socio-political *cum* ethical construct that bespeaks of an ontological condition of interdependence in which law-subjects are placed.

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