



What Laws Are We Morally Obligated to Obey?

What laws are we morally obligated to obey? Help with the answer can be found in “Economic Liberty and the Constitution,” a 66-page pamphlet by Jacob G. Hornberger, founder and president of The Future of Freedom Foundation.

Hornberger offers a hypothetical whereby Congress enacts a compulsory church attendance law that requires children to attend church service each Sunday. Parents are penalized if their children fail to comply. Would there be any moral or constitutional legitimacy to such a congressional mandate? The law would be a clear violation of one’s natural, or God-given, rights to life and liberty. As to whether it would be constitutional, we have to see whether mandating church attendance is one of those enumerated powers of Congress found in Article 1, Section 8 of our Constitution. We’d find no such authority. Our anti-federalist Founding Fathers didn’t trust Congress with religious liberty, so they sought to protect it with the First Amendment to explicitly deny Congress the power to mandate religious conduct. Suppose there’s widespread popular support for a church-going mandate and the U.S. Supreme Court rules it constitutional; do Americans have a moral obligation to obey the law?



You might say, “Williams, while there are gray areas in the Constitution, the U.S. Supreme Court would never brazenly rule against clear constitutional prohibitions!” That’s nonsense. The first clause of Article 1, Section 10 mandates that “No State shall ... pass any ... Law impairing the Obligation of Contracts.” During the Great Depression, the U.S. Supreme Court upheld a Minnesota law that restricted the ability of banks to foreclose on overdue mortgages, thereby impairing contracts made between lender and borrower. To prevent this kind of contract impairment — routinely done under the Articles of Confederation — was precisely why the Framers added the clause.

Another, perhaps more egregious example of the Supreme Court’s impairing contracts came during President Franklin Roosevelt’s New Deal, when the government nationalized gold and made it a felony for any American to own gold. Not only was gold ownership made illegal but it nullified all “gold clauses” in private and government contracts. Writing contracts in gold was a way people protected themselves against government theft, namely inflation. The Supreme Court upheld federal



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nationalization of gold and nullification of gold contracts in the famous Gold Clause Cases. Today many Americans have turned to gold, driving its price to an all-time high, as a safeguard against what they see as pending inflation. Here's my question to you: If Obama and Congress enacted a law demanding that you turn in your gold, would you be morally obligated to obey such a law?

Decent people should not obey immoral laws. What's moral and immoral can be a contentious issue, but there are some broad guides for deciding what laws and government actions are immoral. Lysander S. Spooner, one of America's great 19th-century thinkers, said no person or group of people can "authorize government to destroy or take away from men their natural rights; for natural rights are inalienable, and can no more be surrendered to government — which is but an association of individuals — than to a single individual." French economist/philosopher Frederic Bastiat (1801-50) gave a test for immoral government acts: "See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime." He added in his book "The Law," "When law and morality contradict each other, the citizen has the cruel alternative of either losing his moral sense or losing his respect for the law."

After reading Hornberger's "Economic Liberty and the Constitution," one cannot avoid the conclusion that the liberties envisioned by the nation's founders have been under siege, trivialized and nullified. Philosopher Johann Wolfgang von Goethe explained that "no one is as hopelessly enslaved as the person who thinks he's free." That's becoming an apt description for Americans who are oblivious to — or ignorant of — the liberties we've lost.

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