

# *The Rationality of Utilitarianism's Obligation to Abide by the Law*

Nan Gengxin

*The Law School of Tianjin University of Commerce , Tianjin, 300134, China*

**Keywords:** Utilitarianism, Actively abide by the law, Moral obligation

**Abstract:** The law-abiding obligation, or political obligation, is about whether citizens or residents bear the burden of abiding by a country's laws and respecting political institutions. The problem of moral obligation. There are many kinds of law-abiding obligation theories, but I think the utilitarian law-abiding theory is more reasonable in the contemporary.

## 1. Introduction

Generally speaking, considering the progressive nature of obligations will be linked to the level of compliance. The level of law-abiding is based on the degree to which the behavior of the law-abiding subject agrees with the formal and substantive requirements of the law.

### 1.1 The Lowest Level of Law-Abiding

We said that the lowest level of law-abiding should be not breaking the law. In this level, from the perspective of law-abiding psychology, the law-abiding subject's attitude towards the law is negative or vague, and often regards law as unfavorable, and abides by the law with resistance or negative mentality. Although he is the law-abiding subject, he does not internalize the law into the self-quality of the subject and is not the real “master” of the law[1]. The reason why people at this level abide by the law is mainly due to the compulsion of law. From the content of law-abiding, the law-abiding only or mainly performs the legal obligations, and does not or does not fully exercise the rights conferred by the law.

### 1.2 Intermediate Level of Law-Abiding

The intermediate level of law-abiding is to act according to the requirements of law and form a unified and effective legal order. In this level, from the perspective of law-abiding psychology, the law-abiding subject's attitude towards law is basically positive. However, due to the limitations of the understanding of law and the problems existing in law itself, the subject of law-abiding can not fully realize the internalization process of law. At this time, the law-abiding subject is not the “master” of law in the strict sense. From the content of law-abiding, the subject of law-abiding has basically fulfilled not only the obligations stipulated by law, but also the rights endowed by law.

### 1.3 High Level of Law-Abiding

The higher level of law-abiding is that the subject of law-abiding accords with the spirit and requirements of law, whether from the external objective behavior or from the internal subjective motivation. We say that this level is the ideal state that the human society diligently seeks and strives for unceasingly. In this level, from the perspective of law-abiding psychology, the law-abiding subject's attitude towards the law is full and complete affirmation. The law-abiding subject consciously, actively and actively abides by the law with the posture of "master" of law, and completely realizes the process of self internalization of law. From the content of law-abiding, law-abiding subjects strictly perform their legal obligations and fully exercise their legal rights, thus realizing the purpose of legal adjustment and producing a highly conscious spirit of abiding by the law[2].

For the utilitarian law-abiding theory, it is a high-level performance. According to the utilitarian law-abiding theory, the emergence of utilitarianism law and related legal philosophy schools can be traced back to ancient Greece. This theory explains people's law-abiding motivation from a utilitarian point of view. Interest mechanism is an effective way to adjust people's behavior. Even low-level creatures have a natural instinct to seek advantages and avoid disadvantages. People choose to abide by the law because it can bring more benefits for themselves, or can reduce the loss that may be caused by it by avoiding unnecessary risks, if the law can not be guaranteed In this way, people will not choose to abide by it, on the contrary, they will try to evade or break the law. It can be seen that whether citizens abide by the law or not is decided by the outcome of weighing the gains and losses of their interests.

In a word, the utilitarian law-abiding theory holds that when law-abiding is more beneficial to the happiness of most people than breaking the law, citizens have the moral obligation to abide by the law. This kind of law-abiding obligation can only be transformed into law-abiding practice by the three major motivation of interest motivation, habit guidance and conscience assistance. The law-abiding practice can be divided into passive law-abiding mode with obedience as the center and safeguarding rights as the core The positive law-abiding model of the center and the positive law-abiding mode of taking the public as the center.

Utilitarian law-abiding theory points out that there are three factors that support people to abide by the law in reality: interest stimulation, habit orientation and conscience assistance. Among them, the interest stimulation theory occupies the core position of utilitarianism law-abiding theory. A kind of

#### **1. 4 Interest Stimulation**

Interest stimulation theory is based on utilitarian theory of human nature. Bentham believed that human nature has something in common, which is to seek pleasure and avoid suffering. "Nature puts human beings under the control of two masters, pleasure and pain. Only they can indicate what we should do and decide what we are going to do. The standard of right and wrong, and the causal relationship, are determined by it. Everything we do, say, and think is dominated by it: every effort we can make to "break free from domination" only shows and affirms this. " The principle of bitterness and happiness tells us that people engage in any behavior based on the calculation of their own interests. Therefore, when law-abiding can maximize personal interests, people will choose to abide by the law; when violation of law can maximize personal interests, citizens will choose to violate the law. When discussing why citizens should abide by the law, the decisive factor is social interests; when discussing why citizens should abide by the law, the decisive factor is personal interests[3]. "Most good behaviors are not for the interests of the world, but for the personal interests constituted by the world welfare. "

#### **2. Habit Oriented**

Although the utilitarian law-abiding theory holds that the common people abide by the law because they seek to maximize their own interests, it also admits some exceptions. This kind of exception can be divided into two categories: first, people's obedience to the law is not conducive to personal interests; second, some laws can neither combine personal interests with social interests to make people obey consciously, nor can they use punishment as sanctions to force others to obey. However, in these two cases, the law is still abided by in varying degrees. The result of criterion utilitarianism is that people obey the law out of habit. In order to ensure that law-abiding becomes a kind of morality, the law itself should conform to morality. According to Brent, "a rule utilitarian thinks that the right behavior is allowed by the moral code, which is optimal for the society to which the subject belongs. An optimal norm is designed to maximize welfare or good (and therefore, utilitarian) A moral law should meet three conditions: first, it is optimal relative to other rules in the context of its social system; second, it is designed to maximize utility; third, it should be known and understood by most people in this society. The more the law meets these standards, the easier it is to get people's habitual obedience, and the stronger its ability to resist the tendency of citizens to decide to violate the law in order to safeguard their personal interests[4].

### 3. Conscience Assistance

The pursuit of interests and out of habit constitute the main part of the utilitarian motivation theory of law-abiding, but there is still an important problem: when there is a serious conflict between personal interests and the law, how will citizens treat the law? According to the above theory, citizens will choose to violate the law. However, in real life, there are still citizens who choose to abide by the law. Therefore, there must be motives other than these two motives. Out of his conscience, Mueller's conclusion is to abide by the law. It is precisely because of the role of conscience that the moral obligation of abiding by the law can become the motivation of people to abide by the law even at the expense of personal interests in reality.

Of course, utilitarian law-abiding theory has more important practical significance.

#### 3.1 Reducing the Proportion of Punishment in Citizens' Compliance with the Law

The first role of utilitarianism in law-abiding practice is that it helps to reduce the role of coercion in citizens' law-abiding. First, utilitarianism strictly excludes the situation that is not applicable to punishment; second, when punishment is indispensable, utilitarianism strives to rationalize the proportion between punishment and guilt. In terms of Utilitarianism's exclusion of punishment, it can be divided into two aspects: punishment can not play any positive role in citizens' law-abiding and punishment is unnecessary. As for the former, it can be divided into invalid punishment and useless punishment. Invalid punishment means that punishment has no effect on citizens' law-abiding, including citizens' behavior of violating the law without knowing and understanding the law, or in the great joy that far exceeds the pain brought by punishment, or the behavior of violating the law involuntarily. There are two kinds of situations in which punishment does not benefit[5]. In general, when the nature of crime is compared with that of punishment, the pain caused by the latter is proved to be greater than that caused by the former, Punishment is unnecessary, The above is Utilitarianism's exclusion of the role of punishment in citizens' law-abiding. However, in a society where morality has not been fully developed, punishment is indispensable in the process of promoting citizens to abide by the law. In this situation, utilitarianism adjusts the ratio between punishment and crime through utilitarian standards, so as to minimize punishment. The punishment theory advocated by utilitarianism reduces the proportion of punishment in citizens' law-abiding under the premise of ensuring citizens to abide by the law.

### 3. 2 Promoting the Transformation from Negative Law-Abiding to Positive Law-Abiding

The second function of utilitarian law-abiding theory is that it helps to promote citizens to realize the transformation from passive law-abiding to positive law-abiding. The reason why this change is possible lies in the different position and role of utilitarianism law-abiding theory in the state and citizens' law-abiding. So the key is to make people realize that they have the same interests with others, which comes from education. Through the education of utilitarianism moral theory in the whole society, we can internalize the utilitarian morality into everyone's heart, and form an atmosphere of public opinion based on the utilitarian principle as the evaluation standard. Finally, under the guidance of the internal binding force of utilitarianism morality, people will actively abide by the law, and finally realize the maximization of social happiness. This is the utilitarian law-abiding theory The ultimate goal of.

### 3. 3 Promoting the Reform of the Legal System

The third positive role of the utilitarian law-abiding theory is that it helps to promote the reform of the legal system. Specifically, utilitarian law-abiding theory establishes the legitimacy of law-abiding on the basis that the law should reflect the interests of the majority of people, which brings about two results. First, this requirement is reflected in the legislative theory, which requires the legislators to formulate laws in line with social interests. Only with this kind of law can citizens have the moral obligation to obey. In terms of utilitarianism, it is not only the power of legislators, but also their responsibility to formulate laws in line with the utilitarian principle. Secondly, for those laws that do not reflect the interests of the majority, utilitarianism also admits that they are still laws, but they think that whether people obey such laws or not only lies in the balance of practical interests. No matter what kind of choice it makes, it has nothing to do with morality[6]. By manifesting the moral obligation of the people to abide by the law, the utilitarian law-abiding theory exerts pressure on the legislators to make laws based on the interests of the majority of the people.

## 4. Discussion

Therefore, as far as individuals are concerned, they are more in favor of utilitarianism and law-abiding theory. In contemporary society, with the rapid and stable development of economy, the development of political democracy, and the increasing degree of civilization of cultural literacy, so for the country, we can not only rely on punishment to make the people obey, but also need more incentive, interest and welfare ways to urge the people to abide by the law. At this time, the rationality of utilitarianism theory is self-evident.

## References

- [1] Wang Yongjie (2020). *Whether citizens are obliged to abide by the law. Journal of Gansu Radio and TV University*, Vol. 30, No. 2, pp. 53-58.
- [2] Luo Yizhong (2018). *Law abiding obligation and particularity. Journal of legal system and social development*, Vol. 24, No. 2, pp. 130-144.
- [3] Zheng Yichen (2019). *Planning ethics in the context of Utilitarianism: Inspiration from Bentham and mill, Journal of planners*, Vol. 35, No. 22, pp. 76-80.
- [4] Li Qiao (2019). *Bentham's utilitarianism and its modern value. Journal of Guangxi Institute of education*, issue 3, pp. 103-106.
- [5] Yan Kedong (2017). *Reflection on the theory of law-abiding obligation*, Vol. 29, P. 225.
- [6] Pan Xinrui (2015). *The justification and theoretical interpretation of citizen's duty of abiding by law, Journal of citizen and law*, No. 11, pp. 9-13.