

JACEK KURCZEWSKI*, MAŁGORZATA FUSZARA**, PAWEŁ ORZECZOWSKI***

Legalists and Revolutionaries – Public Opinion on Compliance with the Law

Legaliści i rewolucjoniści – opinia społeczna
o przestrzeganiu prawa

Abstract

This article is part of the sixty-year-old tradition of sociological and legal research initiated by Adam Podgórecki. The presented results and conclusions concern obtaining opinions on the observance and validity of the law, as well as the attitudes adopted towards it – from absolute respect for the provisions to acceptance of their circumvention or violation. The authors' intention was to conduct two types of analyses: a comparative analysis of the distribution of answers obtained between 1964 and 2023, as well as the content of the respondents' extensive narratives relating to the justification of their positions. Data were collected using an online self-administered questionnaire, using a university panel and "Google Forms" made available through social networking sites. Based on the research conducted, it can be concluded that commonly accepted terms such as "legalists", "opportunists" and "anarchists" are not always adequate to the presented attitudes towards the law and are losing their relevance.

Keywords: law, legitimization, legalists, opportunists, anarchists

* Prof. dr hab. Jacek Kurczewski, Department of Sociology and Anthropology of Custom and Law, Institute of Applied Social Sciences, University of Warsaw, e-mail: jacek.kurczewski@uw.edu.pl, ORCID: 0000-0003-2889-6120.

** Prof. dr hab. Małgorzata Fuszara, Department of Sociology and Anthropology of Custom and Law, Institute of Applied Social Sciences, University of Warsaw, e-mail: malgorzata.fuszara@uw.edu.pl, ORCID: 0000-0003-4969-638X.

*** dr Paweł Orzechowski, Department of Sociology and Anthropology of Custom and Law, Institute of Applied Social Sciences, University of Warsaw, e-mail: pawel.orzechowski@uw.edu.pl, ORCID: 0000-0001-9282-5736.



Abstrakt

Niniejszy artykuł wpisuje się w sześćdziesięcioletnią tradycję badań socjologiczno-prawnych, zapoczątkowanych przez Adama Podgóreckiego. Zaprezentowane wyniki i wnioski dotyczą poznania opinii na temat przestrzegania i obowiązywania prawa oraz przyjmowanych wobec niego postaw – od bezwzględnego respektowania przepisów po akceptację ich omijania lub łamania. Zamiarem Autorów było przeprowadzenie dwóch typów analiz: porównawczej rozkładów odpowiedzi uzyskanych w latach 1964 – 2023, a także treści rozbudowanych narracji respondentów, odnoszących się do uzasadnienia zajmowanych stanowisk. Dane zebrano za pomocą kwestionariusza online do samodzielnego wypełnienia, przy wykorzystaniu panelu uniwersyteckiego i formularza „Google”, udostępnionego przez portale społecznościowe. Na podstawie przeprowadzonych badań można stwierdzić, że zwyczajowo przyjęte terminy, takie jak: „legaliści”, „oportuniści” i „anarchiści” nie zawsze są adekwatne do prezentowanych postaw wobec prawa i tracą na aktualności.

Słowa kluczowe: prawo, legitymizacja, legaliści, oportuniści, anarchiści

Introduction

In 1964, Adam Podgórecki initiated a tradition of sociological and legal research that has lasted for many years in Poland and is an attempt to learn the Polish society’s opinion about the law, its observance and validity.¹ The most persistent question in Polish research is whether the law must be strictly observed, or whether it can be avoided or even broken in some situations. In addition to the general answer to this question, Adam Podgórecki was looking for, among others: relationships between the declared attitudes and the characteristics of people convinced of the need to strictly comply with the law, as well as the characteristics of people who support the possibility of avoiding or breaking it. The answers obtained in 1964 are compared below with the results obtained in response to an almost identical question asked nearly 60 years later, in 2023.

Table 1. Opinions on compliance with the law from 1964 and 2023

| | 1964 ² | 2023 ³ |
|---|-------------------|-------------------|
| You should always obey ⁴ the law, even if you think it is unfair/unjust | 45% | 48% |
| Unfair/unjust regulations should only be complied with in appearance; in practice, they should be avoided | 23% | 21% |
| Unfair/unjust regulations should not be applied at all | 19% | 10% |
| It is hard to say/Different opinion/Refusal to answer | 10% | 19% |
| No data | 3% | 2% |

Source: own study.

¹ A. Podgórecki, *Prestiż prawa*, Wiedza i Książka, Warsaw 1966.

It is noteworthy that after almost 60 years we receive almost identical answers in Poland regarding the need to comply with the law. A certain difference is noticeable in the case of breaking the law, which was more often advocated in 1964, and “other” responses (including hard to say, refusal to answer etc.), which were significant in 2023. Does this mean that attitudes towards law enforcement have not changed significantly over the years? To answer this question, we will compare legalistic responses, i.e. those of people convinced of the need to strictly comply with the law, obtained over the following years.

Table 2. People who share the view that the law should always be obeyed⁵

| 1964 | 1988 | 1990 | 1992 | 1993 | 1994 | 1995 | 1996 | 1998 | 2014 | 2016 | 2023 |
|------|------|------|------|------|------|------|------|------|------|------|------|
| 45% | 27% | 28% | 33% | 43% | 43% | 49% | 42% | 47% | 45% | 48% | 48% |

Source: own study.

As we have already written, the research provides grounds to claim that legalism at a level of approximately 43–48% can be considered typical for Polish

² Research carried out under the supervision of A. Podgórecki, from March to June 1964, on a sample of 2,820 people, representative mainly in terms of place of residence (urban-rural), but also taking into account basic socio-demographic characteristics, such as gender, age, education, marital status and profession. Data were collected using a survey (questionnaire interview technique, not a self-administered questionnaire). From: A. Podgórecki, *Prestiż prawa...*, p. 144–145.

³ The survey was conducted by CBOS on 21–26 April 2023 on a quota sample of 1,038 respondents representative in terms of gender, age (18–24, 25–44, 45–64, 65+), education (primary + vocational, secondary, higher), size of locality (village, town below 100 thousand inhabitants, city 100–500 thousand, city above 500 thousand) and voivodeship (16), reflecting in this respect the structure of adult residents of Poland. The study was financed by the National Science Center project “Legislative/regulatory inflation in Poland: a legal, economic and social perspective” implemented at the University of Economics in Krakow.

⁴ In 2023, the questions were: We should always strictly obey the law, even if we think it is unjust; If we encounter legal regulations that we consider unjust, we should only obey them in appearance and in practice avoid them; We should not comply with regulations that we consider unjust.

⁵ The surveys between 1988–2016 were carried out successively by the renowned OBOPiSP and CBOS public opinion polling public agencies, with the exception of the measurement made by Andrzej Kojder in 1995 (A. Kojder, *The Prestige of Law 30 Years Later*, “Polish Sociological Review” 1996, no. 4, p. 353–364). This means that the methodology of the subsequent waves of research was similar and provides a basis for comparing the results of individual measurements. There is, therefore, a close connection between the results obtained over the entire period, starting from 1964 and ending in 2023. By similarity we mean an identical or similar sample of respondents (1000–1100 people), selection of respondents (random, random-quota, quota), standardized material collection technique (traditional or online questionnaire interview), similar analysis technique (correlational, quantitative content, etc.), as well as the statistical representativeness of the results. Individual waves may have differed slightly in the wording of the questions and single-choice answers. For example, in 1993 the word “unfair” appeared, and in the remaining ones “unjust” predominated (M. Fuszara, J. Kurczewski, *Spory i ich rozwiązywanie. Elementy popularnej kultury prawnej*, ZW Nomos, Kraków 2017, p. 83). However, linguistic or stylistic issues had no impact on the respondents’ understanding of the content or the way they answered.

society, but it has not remained stable throughout the period of political turmoil and turns in our history.

We do not have data here for the period of the ‘Gierek revival’ and ‘Gierek stagnation,’ the ‘Solidarity years’ and martial law, but the data from 1988–1993 are dramatic. It seems that the crisis of 1976–1989, when the communist government lost its legitimacy due to the passive acceptance of the population, together with the riots in Radom, the August strikes of 1980 and the explosion of Solidarity, as well as the martial law introduced in 1981 by General Jaruzelski, undermined the delicate compromise between moral sense and public sense of the average Pole. From a historical perspective, it also seems that the level of legalism in 1964 was achieved thanks to reaching this compromise after October 1956, when – initially – Gomulka’s liberalizing party dictatorship replaced the Stalinist terror. The very fact that Podgórecki was able to carry out a public opinion poll, even if he was not allowed to ask about everything, clearly proves this compromise, which was later violated again and was only restored after 1989 with the transition to democracy, which by no means ended Polish problems in general, or problems with the law and the justice system in particular.⁶

We will not provide here data on possible relationships between the socio-demographic characteristics of people who support strict compliance with the law, especially since the studies from different periods used different categories and ranges, such as those relating to the age of respondents. We can only cautiously conclude that both in the past (1964) and now (2023), legalistic attitudes tend to be characteristic of slightly older age groups, and younger people are more likely to advocate avoiding or breaking the law, which is not surprising given the widespread nonconformity and reluctance to obey any orders attributed to young people. The latest research clearly shows that with age, the declaration of respect for the law increases, even if one considers it unfair, while the majority of the youngest people believe that it is best to avoid such law. Legalism, which has been observed since A. Podgórecki’s research in 1964, is also more common among people with higher education. This result is thought-provoking and requires further interpretation; it is also worth emphasizing that absolute obedience to legal precepts is declared by Poles more often than obedience to religious precepts.

The above-mentioned answers to the questions are representative of Polish society, but they do not give us an answer to the question of how one’s views on observing or breaking the law are justified. Therefore, the authors decided that it was worth asking this in the first place, taking as a starting point the “classic”

⁶ J. Kurczewski, *Prawem i lewem. Kultura prawna społeczeństwa polskiego po komunizmie*, “Studia Socjologiczne” 2011, vol. 200, no. 1, p. 613–614.

question of whether laws should be strictly observed, or whether they should be avoided or broken if one considers them unjust.

Research Methodology and Sample Characteristics

We collected the material that became the basis for our considerations using an online questionnaire to be completed by respondents themselves.⁷ The tool was turned into the Internet version and distributed using two systems: the “Sona”⁸ university panel and social networking sites (mainly “Facebook”) in the form of “Google Forms”. The data collection stage lasted from 7 to 25 November 2023, and the questionnaire consisted of seven open and closed questions as well as five so-called “records” (concerning gender, age, education, place of residence and assessment of one’s own financial situation). The study involved 402 participants (170 used the university panel, and 232 completed a questionnaire adapted to the “Google” service and distributed via social media). The initial qualitative analysis of the open-ended responses was performed by Maria Świetlik, and the authors of this text further processed the results.

The selection of respondents was not random, but the results obtained and the conclusions formulated can be generalised in a typological (not statistical⁹) sense to the general population. The study involved significantly more women (approx. 74.65%) than men (26.63%), and three people marked their gender identification as other. The majority (60.95%) of respondents declared higher education (245 indications), 38.31% secondary education (154 indications), 3 primary/vocational education. The age distribution of respondents is as follows: 32 people under 20 years of age; 152 aged 20–29; 19 aged 30–39; 45 aged 40–49; 44 aged 50–59; 65 aged 60–69; 39 aged 70–79 and four aged over 80 (three people did not provide their age). Therefore, the collected sample is dominated by young people, up to 49 years of age (approximately 62% in total).

Most respondents are residents of large cities, with over 500,000 inhabitants – “city with a population of 501,000 and above” was indicated by 279 people (69.40% of responses), “city with a population of 101,000 to 500,000” –

⁷ Name of the technique after: A. Krzewińska, K. Grzeszkiewicz-Radulska, *Klasyfikacja sondażowych technik otrzymywania materiałów*, “Przegląd Socjologiczny” 2013, vol. 62, no. 1, p. 16.

⁸ This is an online platform of the Faculty of Psychology of the University of Warsaw: <https://uw.sona-systems.com/Default.aspx?ReturnUrl=%2f> (accessed: 13.05.2024). The research panel consists mainly of university students.

⁹ The study did not maintain quantitative proportions reflecting the structure of adult Poles in 2023. The majority of participants in the project were women, people with higher education, young people (aged 20–29) and from large cities (over 500,000 inhabitants). This is a different study than the one conducted by CBOS in the same year (on April 21–26), the results of which are presented in the Introduction of this article (p. 20–23).

23 people (5.72%). As a place of residence, “town with a population of 20,000 to 100,000” was chosen by 41 people (10.20%), “town with a population of less than 20,000” – 17 people (4.23%), and “village” – 42 people (10.45%).

The majority of respondents assessed the financial conditions of their own household as good or rather good (“good” or “rather good” was indicated by a total of 294 people – 38.06% and 35.07% of the responses, respectively – a total of 73%). The option “neither good, nor bad” was chosen by 91 people (22.64%), and the fewest people described their conditions as bad (“rather bad” 2.49%, “bad” – 17 people i.e. 1.74%).

To Obey Every Law, Even Those Considered Unjust

The main question of the questionnaire was: “What is your opinion on compliance with the law?”. It had a closed form, and the respondents’ task was to indicate one of four answers including: apparent compliance with legal provisions perceived as unfair; unconditional respect for law; non-recognition and non-compliance with harmful regulations; and a different opinion on the subject. Based on the frequency distribution obtained (Table 3), it can be said that nearly 80% of respondents chose one of the views previously proposed in the single-choice answers, while the rest formulated them individually. The most frequently indicated behaviours towards unjust laws were circumventing them to be circumvented and absolute compliance with them (32% and 31%, respectively). It is worth noting that these groups are almost equal in size. The proposed answers to this question also became the main analytical framework and categories that allowed for organizing the justifications and arguments for a specific choice.

Table 3. Frequency distribution of answers to the question: “What view of law enforcement do you agree with the most?”

| Answers | an. (n=402=100%) | % |
|---|---------------------|--------|
| If we encounter legal provisions that we consider unfair, we should only obey them in appearance and try to avoid them in practice. | 130 | 32.34% |
| We should always strictly obey the law, even if we think it is unfair | 125 | 31.09% |
| We should not comply with regulations that we consider unfair | 66 | 16.42% |
| I have a different opinion on this topic | 81 | 20.15% |

Source: own study.

In addition to answering this general question, we asked for justification for one's view, and these justifications proved particularly interesting and prompted further reflection on attitudes towards the law.

If Not to Obey an Unjust Law, Then When and Why

An analysis of the answers given by the respondents (mostly female respondents) allows us to conclude that the group of respondents is dominated by supporters of the natural law approach. We encounter them not only among those who claim that a law that one disagrees with should be obeyed only in appearance and in fact be avoided, but also among those who declare that a law which one considers unjust should not be applied at all, and also among those who chose the "other answer" option. These are people who believe that positive law is not the only or highest system of norms and behavioural patterns that should be followed. Some people directly referred to definitions of law that weakened the extremely legal-positive approach to law: "I share Radbruch's view on this issue. Law is law when it meets the requirement of a moral minimum, otherwise it becomes lawlessness. This is what the history of the Nuremberg trials teaches us" (F 19¹⁰). This group is not homogeneous, as we encounter two different approaches, depending on where the respondents see the source of higher, more important guidelines regarding proper conduct. Some of them see them in a system of universally applicable moral norms ("The highest law is moral law, not statutory law" (F 52), "The law is not always moral" (M 18), "The law is above moral law, it works against the good" (F 52)). It can be cautiously said that this is a group that seeks guidance in certain general norms, but these lie in the external world, so they are representatives of the heteronomous approach. However, there is an even larger group emphasizing the value of moral autonomy, looking for guidance on proper conduct in one's own conscience ("A person should develop their own morality and not follow the rules" (M 26), "It may happen that the law is contrary to conscience. (...) you have to be guided by your own discernment" (F 62), "For me, my own conscience is a more important determinant of my behaviour than the law" (F 20)). It is worth recalling that many years ago Jacek Kurczewski stated that Poles have developed not only attitudes that allow them to assume that their own beliefs and conscience are more important than statutory law, which is understandable especially in totalitarian or semi-totalitarian systems, but also a "Protestant" approach to

¹⁰ The quoted statements from the interviews are accompanied by basic information about the socio-demographic profiles of the respondents. The gender (F – female, M – man, Other) and age expressed in number of completed years are given in brackets.

the Roman Catholic faith, because they gave themselves the right to act in the way they chose not only when they knew that this behaviour was prohibited by law, but also when they knew that the action was a sin.¹¹ It is similar in this case – awareness of the validity of legal norms is not a sufficient condition for complying with them, since there are “norms of a higher authority”, with which the law should be consistent, and our own conscience, which is always decisive.

The answers given to questions about compliance with the law and the reasons for compliance, and especially non-compliance, show the importance of current events, which influence the right not to comply with the law with regard to oneself and others. Examples of current debates and problems related to the question of the shape of the law appear repeatedly in the respondents’ statements. The most frequently cited example was the legal regulation of pregnancy termination.¹² This example was cited as one that indicates the possibility, and sometimes even necessity, of not complying with the applicable law. Possibility – because such a law is considered unjust, violating women’s basic rights (and therefore contrary to a higher system of norms: “You should not agree with a law if it is unjust, e.g. the ban on abortion” (F 43)), and necessity – in cases that pose a threat to a woman’s health or even life (“Compliance may directly endanger us or our loved ones – e.g. abortion law in Poland” (F 22), “The ban on abortion threatens women’s lives and health. It limits freedom and human rights” (F 21)).

Another recent example relates to helping refugees crossing the eastern border¹³ (“If the law states that people who have entered the country illegally must be expelled, which means they face a real risk of death, it means that the law is

¹¹ J. Kurczewski, *Grzechy cielesne, a prywatyzacja ciała (notatki z badań)*, in: *Bóg, szatan, grzech. Studia socjologiczne*, vol. 1., eds. J. Kurczewski, W. Pawlik, Miniatura, Warsaw 1990, p. 157–190.

¹² In Poland, in the years 1956–1993, access to abortion was relatively easy. After the socio-political changes in 1989, right-wing parties submitted bills to parliament banning abortion. Heated discussions led to the so-called abortion compromise of 1993, according to which termination of pregnancy was possible in three circumstances – when there was a threat to the woman’s life and health, when the pregnancy was the result of a crime, when tests indicated serious and irreversible defects of the foetus. There were many attempts to change the law in later years. After right-wing parties came to power in 2015, it was proposed to remove this third condition. These attempts led to mass street protests. They peaked in 2020, when the Constitutional Tribunal found this condition to be unconstitutional. In the opinion of many sociologists, this change was the reason for the activation of women and young people, which led to the opposition winning the elections in 2023. In Poland, a woman who undergoes an abortion is not punished, but everyone who helped her have an abortion is punished, not only doctors, but also people who, for example, donated, sold or supplied abortion pills. For this reason, this example is probably particularly important for those responding.

¹³ Since 2021, we [meaning Poland] have been dealing with organised illegal smuggling of people from various countries, especially from Afghanistan, the Middle East and Africa, from the territory of Belarus to Poland, Lithuania and Latvia, and therefore into the territory of the European Union. The behaviour towards migrants in Poland is controversial – border guards try to prevent their influx, even using push back. Residents and non-governmental organizations are trying to help migrants who managed to cross the border illegally, who are often exhausted and in poor condition.

above moral law, it works against the good. Therefore, you should not follow such regulations” (F 52), “It may happen that the law is contrary to conscience. (...) you have to be guided by your own discernment” (F 62)).

The third example, indicated as a legal regulation that is objectionable and inconsistent with current legal solutions in other countries or – even more importantly – the needs of citizens, is the inability to enter into a same-sex marriage or the need to sue one’s parents in the event of gender reassignment. These examples show that some people treated the survey as an opportunity to speak openly about unfair, inappropriate and unjust laws, because these are situations in which breaking the law is practically impossible, unless we treat as such, for example, getting married by people of the same sex abroad, and therefore against Polish law. However, since such a marriage is not recognised by Polish law, it is difficult to treat such examples as anything other than an objection to the applicable law.

An important argument in favour of circumventing or breaking the law, according to the respondents, is the fact that the law may be unfair and out of date – it does not respond to changing needs, and this discourages compliance with it (“Some laws may be outdated or harmful to minorities” (F 20)). One should not obey a law that, in their opinion, is anachronistic, incompatible with the current perception of the world, their rights and the rights of other people (“The law is not adapted to a part of society and our realities. Such a law is, for example, the ban on providing assistance in abortion, which clearly limits the personal freedom of a huge number of people” (F 26)).

The above-mentioned arguments were given by people who believe that the law should be obeyed only apparently, by people who chose the “other” option, and by those who believe that the law should not be obeyed at all because it is unjust. However, people who chose the last answer (“We should not comply with regulations that we consider unfair”) relatively often justified their view in another way, not found in other groups of respondents. They refused to legitimise the legislator, believing that the law is shaped by various groups not in the general interest, but in their own interest or in the interest of other influential groups (“It [legislation] usually represents the interest of only some people, those who participate in its writing or are perceived by legislators as important” (F 47)), and is also primarily a tool for control and exercise of power (created “to ensure that those in power maintain control over society – by pursuing a number of their own interests” (F 21), “There are situations in which we are dealing with gross injustice, resulting from blatant manipulation in the interpretation of regulations by institutions standing in a privileged relationship with the person against whom the injustice is happening, which, unfortunately, is not a rare phenomenon” (M 36)), determined without consultation and public participation (“Norms are most often established without even our minimal

participation” (M 21), “The state imposes on us views that are inconsistent with public opinion, e.g. religious issues” (F 21)). Occasionally, the statements of this group of people included extremely negative assessments of legislators (“Laws are sometimes made by idiots in the name of their cynical interests, not the interests of the general public” (F 68)).

The reason for the lack of legitimacy of the legislator is also the fact, often cited, that a law in Poland was made in violation of the constitution, so such a law cannot be observed (“The law was made contrary to the Constitution” (F 63), “Human rights enshrined in the Constitution set the boundaries of other provisions, the conflict of which with human rights may result in the invalidity of the former” (M 28)). Therefore, the respondents claim that one should not obey regulations imposed by an authority which, in their opinion, lacks legitimacy to exercise it and is undemocratic (“Regulations imposed by an undemocratic authority should not be obeyed (...)” (F 40), “If the law was imposed on me by force or by someone whose power I deeply disagree with, because it is absolutely alien and hostile to me. Like during the occupation, but also in the situation of the rule of someone like Trump, Kaczyński, Ziobro, Czarnek (...)” (M 53), “If only because compliance with the law created by tyrants and regimes leads to crimes” (F 62)).

People choosing the option of opposing the law that they consider unjust also directly or indirectly referred to the idea of civil disobedience (“A citizen (not an authority!) may refuse to execute a given law as part of the so-called civil disobedience” (M 45)). This is a fundamental difference compared to supporters of bypassing unjust legal regulations, who believe that such law should be complied with, but only apparently. Recall that according to Joseph Raz’s simple definition of civil disobedience, such behaviour is “a politically motivated breaking of the law that is intended directly to change the law or social policy, or to express someone’s protest and lack of appreciation for the law or social policy.”¹⁴ Other features of civil disobedience are primarily its peaceful nature and the desire to change those elements of power to which we do not consent. One of them is law. We will return to the duties of a “disobedient citizen” when presenting the consequences that, in the respondents’ opinion, are associated with the methods of behaviour they choose when encountering legal regulations with which they do not agree.

¹⁴ J. Raz, *Autorytet prawa. Eseje o prawie i moralności*, transl. P. Maciejko, Dom Wydawniczy ABC, Warsaw 2000, p. 264.

If You Follow an Unjust Law, Then Why

It is time to analyse the arguments of people who believe that we should follow the law even when we consider it unfair. Supporters of this view refer to three types of arguments: one of them is the need to maintain law and order, preventing chaos, which would be inevitable if we massively disobeyed general norms established by the law, and instead were guided by subjectively determined, individual norms and views. Proponents of this view believe that the law provides order and stability: “The law exists to maintain order (...)” (F 23), “Failure to comply with the law leads to chaos, and in the long run this is worse than injustice” (M 26), “Compliance with the law is a necessity, otherwise we would be dealing with chaos, or maybe even lynchings” (F 72), “The law fulfils the function of regulating social life and as such it applies to everyone” (Other 25). Some narratives include references to the effects of anarchy, for example in the form of harming people and making living conditions more difficult. This latter view is similar to the second of the arguments we have distinguished in favour of the need to obey the law. It refers to interpersonal relationships and the possibility of violating the rights of others if one fails to comply with the law, as well as injustice towards those who do obey the law: “Failure to obey a law, even a senseless one, is unfair to honest people who are also bound by the same law” (M 22), “Since others obey the law, it would be unfair to them to break the law in our favour” (M 23). Following a subjective interpretation may lead to dangerous consequences in the long run and violate the equality of citizens: “If we assume that each citizen can decide for themselves what is fair and what is not, we will quickly create a lawless state and some people will, for example, rob the richer in the name of justice and equality” (M 20), “Law is the basis for the functioning of society. Strict observance of the law contributes to the maintenance of order and ensures equality before the law for all citizens” (F 19). Supporters of this view, unlike the others, did not refer to morality, human rights or any other system of norms with which the law may be consistent or inconsistent. However, they emphasised that compliance with the regulations is beneficial because it ensures social order, order and stability, prevents the unequal situation of people who obey and disobey the law, and allows them to avoid sanctions for breaking them. Thanks to the clarity of the rules, the law facilitates everyday functioning in society and contributes to equal treatment of all citizens.

And finally, the third argument in favour of strict compliance with the law, regardless of how we evaluate it, is fundamental – the law should be obeyed and that’s it – it is an axiom that does not require further justification. The well-known principle *dura lex, sed lex* was quoted several times, and the objective fact that legal rules apply to everyone was emphasised: “The law is the law and

regardless of whether we like it or not, it should be obeyed” (F 68). In this context, the educational role of law was sometimes mentioned: “Derogations and freedom teach bad habits” (M 57). Contrary to the opinions of people who allow circumvention or violation of the law, in this case there was sporadic reference to the law-making process itself and its social roots. However, it was more often stated that despite the need to comply with harmful regulations, efforts should be made to change them. This proves a greater sense of agency compared to simple legalism: “Unjust law can be changed” (M 26), “Instead of breaking the law, it would be better to take a civic initiative to change it in order to make it more sensible and transparent” (M 22), “If we believe that the law is unjust, we should strive to influence the legislator to change it” (F 22). Several narratives referred to the state and its law as a certain superior value: “Compliance with the law is the only way for the proper functioning of the state (...) and is the simplest expression of patriotism” (M 65), “It is a necessary condition for maintaining the state of law and social order. No exceptions” (F 80).

In understanding the arguments relating to obedience to the law, even when it seems unjust, it is helpful to compare key concepts with opposite meanings, such as: order vs. chaos, objectivity vs. subjectivity as well as egalitarianism vs. inequality, or unconditionality vs. freedom and selectivity. The narratives of this group of people refer, much more often than in the case of other categories, to trust in the state, its institutions and the law it creates, as well as a certain reflection on its creation and causality. One can, and often should, try to change harmful regulations, but they should be followed until the change is made.

There is one more important point. We received many responses indicating the influence of current affairs and debates on the views of the respondents. The variety of experiences cited (authoritarian governments, PiS governments, Nazi Germany) meant that the answers were often not general, but relativised to specific situations. This was put most succinctly by one of the respondents who, in response to the question of whether the law should be obeyed, said: “In a state of law, yes. In a lawless country, no” (F 74).

The Consequences of Our Views and Behaviours

Behaviour often described as “conformist” or even “opportunistic”, i.e. following the provisions of the law on the surface and bypassing them when one considers them unjust, inappropriate, or issued by an authority whose legitimacy one denies, is clearly connected with awareness that open violation of the law exposes one to unpleasant consequences. However, a more detailed analysis of the answers indicating the reasons for such behaviour shows that it is not, or at least not always, behaviour that the authors would be ready to consider

conformism or opportunism. We are inclined to say this in relatively straightforward cases, when the respondents give examples of regulations that in their opinion are absurd and make everyday functioning difficult, and therefore they support non-compliance with them, but in a way that does not expose them to consequences in the form of penalties. The most frequently mentioned in this context were road traffic regulations, especially the prohibition of crossing the road on a red light even when there are no vehicles on the road. The respondents believe that: “it makes no sense. For example, I cross on a red light when the road is completely empty...(...)” (F 44), “You must always obey the law with common sense, e.g. if the car is not moving and I want to shorten my route, I can cross the streets” (F 22). The justification for the advisability of circumventing the law in a way that does not expose one to unpleasant consequences applies especially to such situations. By circumventing the law in such cases, no harm is caused to anyone, nothing bad happens, yet open non-compliance with the law would expose one to unpleasant consequences: “(...) it is worth pretending to avoid punishment” (F 21), “Sometimes the regulations are absurd, but for your own good it is better to keep a low profile” (F 21), “The law serves the proper functioning of society. If they are unfavourable to someone due to the imperfect way they were written (because it was people who created them), no one loses by breaking the law. For example, who is harmed by crossing an empty street” (M 21), “Not all laws always make sense and in some cases it is better to avoid them. Of course, without exposing yourself to the usually unpleasant contact with the authorities (...)” (F 19). In this case, failure to comply with the law is dictated by one’s own convenience and the awareness that no one is being harmed, yet such an attitude is not supported by values important enough to express the need to openly oppose the legal regulations or strive to change them.

More complex motives were indicated when compliance with legal regulations would go against conscience or a higher value, in the opinion of the respondents. In this case, too, failure to comply with the law is often indicated as appropriate, but in a covert manner that does not expose the people who avoid the law or other participants in the interaction to consequences. In this case, this higher value may be the well-being of people who one believes are hurt by a harmful and unfair legal regulation. As one of the respondents said: “you can try to break them [the laws] to the best of your abilities if you believe that, for example, you are helping those who are harmed by them” (F 19). In such cases, references were often made to specific examples, similar to those already mentioned, primarily assistance in abortion and help for refugees: “If the law states that people who have entered the country illegally must be expelled, which means they face a real risk of death, it means that the law is above moral law, it works against the good. Therefore, you should not follow such regulations” (F 52), “You should not agree with a law if it is unjust, e.g. the

ban on abortion. If you have the opportunity, you can do it quietly, so as not to get into legal trouble” (F 43).

Thus, although people do not openly break the law and have chosen the answer that in such cases the law should be circumvented in a way that does not expose them to unpleasant consequences, we would not want to call them either opportunists or conformists. These are people who consistently support the natural-law approach, believing that there is a system of higher standards than the official law to which we should be faithful, which does not mean that we should expose ourselves to penalties because of it.

Our research shows that the respondents’ opinions on compliance with the law are more complicated than the proposals presented by A. Podgórecki nearly 60 years ago. We have already written that supporters of the natural law approach, which gives a higher status to norms other than statutory law, are found not only among people who choose the answer that allows breaking the law, but also among those who support circumventing the law, as well as numerous people who choose the answer “other” and expressed their own opinions that did not fit into the division proposed by the researchers. The same is true of people who believe that we should work to change laws we do not agree with. We found such people, which was surprising to us, in all groups of respondents – even among those who believe that the law must always be obeyed. They are also found – which we expected more – among those who believe that unjust laws should be avoided and those who believe that one should break laws that they do not agree with and which in their opinion are unjust. In general, such legalists hold the view that although the law should always be obeyed, if one considers it unjust, they should strive to change it: “We should obey the law and at the same time act to change it if we believe it is unjust” (F 43), “You should comply, but at the same time take action to change/eliminate unfair regulations from legal circulation” (M 62), “You should comply with the established law, but strive for change” (F 24). Similar statements are found among supporters of bypassing unjust laws: “I should try to change or bypass a law that is inconsistent with my perception of morality, but disagreeing with the law does not give me the right to break it” (F 20). Another form of action is to ask a given office to explain the state of affairs. This is certainly a milder form of protesting against unjust laws, but it also expresses the attitude of an “active citizen”: “You should always obey the law, but if I consider something unjust, I turn to the appropriate institutions or people to explain this state of affairs” (F 55).

The need to take action to change a law is most clearly expressed in the statements of respondents who believe that such a law should not be applied at all. As mentioned above, these people often referred to the idea of civil disobedience. They impose on themselves and society as a whole the obligation to oppose, even rebel, and work for change: “Civil disobedience should be exercised and

efforts should be made to change both this law and the authoritarian power that establishes such a law” (F 53), “Regulations imposed by undemocratic authorities should not be obeyed = the right to civil disobedience” (F 40). The idea of civil disobedience was expressed most clearly by the respondent who stated: “In the case of statutory lawlessness or non-statutory law, when laws or actions to which the state gives the sanction of law, but which are not law because the act in question was not created in accordance with the rules of law-making, it is possible to disregard, such laws with full awareness of exposure to the consequences of non-compliance (civil disobedience)” (M n.d.).

Let us recall that the theoretician and practitioner of the concept of civil disobedience, H.D. Thoreau, emphasised that it is the duty of every citizen who does not act in isolation but is part of society and therefore should feel responsible for the fate of the state and society. As he wrote: “It is our duty to make sure that we do not act as instruments of the injustice that we condemn.”¹⁵ The views expressed in our research by people who believe that clearly unfair regulations should be broken are consistent with this understanding of civic duties. Seeking to change unjust laws is often perceived and defined as a duty and moral imperative, as evidenced by the frequently used form “one should” or “we should”. These are undoubtedly active citizens who have a sense of agency towards the state and its rules. They are convinced that efforts must be made to introduce favourable and satisfactory changes to the law. Usually, no specific indication was given as to who (or which institution), and by what methods, would undertake these activities. It was often emphasised, which is also consistent with the concept of civil disobedience, that increasing the power of influence should be the result of collective actions and mass contestation in the form of protests, wide-ranging discussions and publicising the issues, rather than through individual ‘do not comply’ behaviour. Law-making is part of a larger structure, which is the state with its institutions, procedures and civic involvement. This is well illustrated by the statement of a respondent whom we can call a “legalist – an informed citizen”, who claims that the law should always be obeyed, but at the same time: “I would add that it is worth fighting to look for other opportunities to change this law (taking part in elections, getting involved in state matters)” (F 23).

In the responses of people who support open violations of the law, there are clear phrases indicating the need to fight for change and implementation of one’s beliefs: “Unjust, e.g. oppressive laws should be fought, not just avoided” (M 62), “One should fight against unjust laws, protest openly” (F 62). In this

¹⁵ H.D. Thoreau, *Obywatelskie nieposłuszeństwo*, transl. H. Cieplińska, Dom Wydawniczy Rebis, Poznań 2006, p. 33.

group, we meet Merton's "rebels"¹⁶ who often reject officially defined cultural goals and the means to achieve them: "Revolution and protest require breaking the law and the existing order" (M 40). This is especially true in the statements of people who believe that what is needed is not only a change in the law, but also a broader socio-political change:

There were many times when the laws have been established in violation of the Constitution, the basic principles of ethics and human rights – e.g. laws are currently being passed in Poland that are inconsistent with the Constitution. These laws are not to be obeyed, but fought against. Very often it turns out that those who acted against the applicable but unjust law were right (F 63).

We encounter similar questioning of the goals and the means to achieve them in the statements of people referring to current phenomena – abortion or helping refugees: "The law is not a value in itself, it should generally be respected, but not if it harms people (e.g. by prohibiting abortion (Poland), or helping immigrants (Hungary))" (F 21), "I do not agree with the current law regarding abortion. I believe that in its current form it is harmful for many people, as the last few months and the deaths of some women have shown" (F 23).

Open breaking of the law is associated with rebellion and harsh forms of action, which are intended to bring about not only legal change but also broader social change. However, in the case of bypassing harmful and hurtful regulations, the moral imperative of rebellion is softened when compared to open disobedience and breaking unjust laws. This is evidenced not only by other forms of behaviour, but also by the terms used, because instead of the imperative "must", there is often an impersonal "should" or the use of a formula allowing for optionality ("and/or"). This is shown, for example, by the comparison of two statements: "One should strictly obey the law, but if we consider it unjust, we should strive to change it for the better" (F 30), "We must fight against unjust law, openly protest" (F 62).

The above observation indicates that supporters of changes in the law are found in all groups – those who believe that the law should always be obeyed, those who grant themselves the right to avoid the law, and those who believe that unjust laws should not be obeyed. In response to the question of whether the law requires serious changes, the majority of respondents (as many as 55%) gave an affirmative answer. It is true that such a belief is most often expressed – obviously – by people who admit that they have the right to break the law (64%), but there are slightly fewer of them in the group of people who support

¹⁶ R. Merton, *Teoria socjologiczna i struktura społeczna*, transl. E. Morawska, J. Wertenstein-Żuławski, ed. 2, Wydawnictwo Naukowe PWN, Warsaw 2002.

the possibility of circumventing the law (57%) and in the group of legalists, in which they also constitute the majority (54%). Of course, the problem requires further research, but we can cautiously conclude that the belief that the law requires or does not require changes is independent of the beliefs about whether it should be obeyed or whether it can be avoided or broken.

Instead of Conclusion

The research results presented above constitute, in our opinion, an important complement and complicate the problem that has been bothering sociologists of law since the pioneering research of A. Podgórecki, especially those who are interested in the opinions and attitudes of Polish society towards the law. Our study should undoubtedly be supplemented with research on a representative sample of Polish society, but we would like to emphasise that our respondents can be treated as “competent informants”, because they themselves felt the need to comment on the topic we proposed. This probably means that there are more respondents with crystallised views in our group than in representative samples. At this stage of our research, we want to draw attention to three issues:

1. In previous research in Polish sociology of law, it was customary to call “legalists” those who believed that the law should always be obeyed, even when we consider it unjust, “opportunists” those who believed that unjust laws could be avoided, and “anarchists” those who believed that unjust laws should not be obeyed. Our research indicates that these terms – to put it very carefully – are not always adequate to the declared attitudes. Instead of the existing categories, we propose that the term “legalists” be reserved only for those people who believe that the law has to be obeyed simply because it is the law, i.e. legal fundamentalists. The Latin maxim *dura lex, sed lex* quoted by some of the respondents is the most concise expression of such an attitude towards observance of the law. In the same group that was previously referred to as “legalists”, we propose to distinguish also a group of “legalists-reformers”, i.e. people who believe that as long as a law is official and binding, we have a duty to obey it, but we should strive to change laws with which we disagree.
2. The term “opportunists” does not apply to the attitudes of the people who took part in our research. This is indicated primarily by the motives for choosing this option, as cited by the respondents. Among the justifications, we did not find a simple fear of punishment or a belief that it is better to obey even an unjust law in order to have peace of mind. The justifications were much more complex, and therefore we propose to change the term used to describe this group. We propose the term “de facto reformers” to de-

scribe the attitudes of the respondents who believe that unjust laws should be obeyed on the surface, but in fact bypassed. These are people who apply the principles they believe are right, as if without taking into account the official law. Therefore, it can be said that through their behaviour, they somehow “reform” the system, adapting it to the existing needs and expectations. Their motivations are varied – sometimes these are simply cases of non-compliance with regulations that are illogical in the opinion of the respondents (e.g. prohibition of crossing the street even if nothing is approaching). More often, however, it is a motivation resulting from the assumption that it is necessary to defend important values (e.g. a woman’s right to choose and decide about her own body and reproductive rights) without exposing oneself and others to harmful consequences. Finally, we would like to emphasise that, contrary to earlier definitions, we did not encounter “anarchists” among the surveyed. Instead, some respondents did not advocate the rejection of the law or the state in general, but claimed that open non-compliance with the laws which they believe to be harmful is necessary to change the system for the better. Many of these people openly declared that this was civil disobedience, so their attitude was not anarchist, but on the contrary – in their opinion, it was intended to improve the state. We propose the term “revolutionaries” to describe this group, which was used by one of the respondents belonging to this group. We chose this term not because they would like to overthrow the state power (perhaps they do, but we do not know that), but because they are in favour of a quick and fundamental, and therefore revolutionary, change in the law.

3. It turns out that beliefs about compliance with the law and the need to change it are independent of each other. The need for change is recognised not only by those who believe that the law can be broken if they do not agree with it, but also those who believe that the law can be circumvented in such cases, as well as those who believe that the law should always be obeyed. We make this statement with caution, as we believe that it requires further research, but it is of fundamental importance for further considerations on the law and its legitimacy. However, it should be borne in mind that our research was not conducted on a representative sample, and the fact that the respondents were “volunteers” who decided to complete an online survey may cause them to have above-average crystallized attitudes towards the law. That is why we propose to add two categories that are “empty” in our survey, but can be expected to occur in society. The first is the category of “opportunists” to describe people who are not interested in the law, are indifferent to it and believe that it should be obeyed regardless of the content, just so as not to get into trouble. On the other hand, we propose to reserve the category of “anarchists” for people who believe that the law and the state

are unnecessary or even harmful, if only because of the creation of hierarchy and the imposition of power by the stronger group on the weaker group, and only the abolition of the state, and with it the official law, can remedy this situation. However, confirmation of the usefulness of these developments requires more in-depth research.

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