Do we have reasons to obey the law?*

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Introduction

When we ask whether we ought to obey the law, we often mean to ask the more precise question, ought we to obey the law *because it is the law*? It is important to ask this more precise question because in one natural but trivial sense, we 'obey the law' whenever we perform some act to which the law's demands merely happen to agree. We might, that is, do the thing the law demands for reasons unrelated to the law itself, such as because we believe it is a requirement of morality that we do this thing, or because of some threat, or because it is the thing we most want to do. But to do as the law demands for these sorts of reasons would not be to *obey it* in any important sense; such 'obedience' would no more count as obeying the law than would unwitting conformity to some ancient code, or fictional regulations, or foreign rules of etiquette, count as obedience to them.[1] When we ask whether we ought to obey the law in the relevant sense, we are asking if we should do as the law demands *because it is what the law demands.*

We often also mean to make the question more precise in another way. In another natural sense, to obey the law *because it is the law* is to count the fact that the law demands we do some act as among our motivations, or motivating reasons, for doing it. But this is not the relevant sense of 'because' nor the relevant kind of reason. We often *do not* mean to ask whether, in obeying some law, our motivating reason was composed in some part by the fact of the law's demand. Nor do we mean to ask which reasons *would*, in certain ideal circumstances, or *should* motivate us to act. Instead, we mean to ask whether the law makes genuinely normative demands on us, whether or not we are motivated by them, such that we may truly say that we ought to do the thing it demands. More concisely, we are asking whether the law gives us reasons for action that are genuinely normative and, as Hart and others have called them, 'content independent.'[2]

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[1]Ancient, fictional, and most foreign laws, admittedly, make demands only on certain ancient, fictional, and foreign people, and so it might be objected that, by contrast, *your* unwitting compliance with a law making demands on *you* would indeed count as obeying it. Imagine however that I have written down in a notebook some laws which I intend everyone, including you, to follow, and suppose that one of my laws demands that you rise before noon on weekdays. If you, unaware of my notebook's 'laws', rise at 8 A.M. on Monday, we would still rightly resist the claim that you were in doing so obeying my law, except in some very trivial sense.

[2]Hart is widely credited with first introducing the notion of content independence of legal reasons. See HLA

My answer to these more precise questions is Yes: we *do* very often have reasons to obey the law, *because it is the law*, in the genuinely normative, content-independent sense. This answer goes against a strong current in political and legal philosophy which has led many to endorse philosophical anarchism,[3] the family of views often expressed by some combination of the claims (1–3):

1. Any reasons we may seem to have to do as the law demands are really just reasons to do as we ought *full stop*, independent of the law, in virtue of our ordinary moral obligations; or

2. Whatever conditions would obligate us to do as the law demands are not met, and maybe could not be met, by the law; or

3. Any such apparent reasons are merely *prudential* reasons to act so as to avoid being fined or punished by the state.

The law, on any of these views, is simply not normatively significant.

Separately, some have been recently convinced that there can be no content-independent reasons to obey the law, or at least that no successful account of what such reasons might amount to has yet been given.[4] This separate conclusion only strengthens the appeal of the philosophical anarchist's claim, by undermining the very possibility of having a genuinely normative reason to as the law demands because it is what the law demands.

We should not, I believe, be philosophical anarchists, nor should we be skeptics about the possibility of the content independence of reasons given by the law. I believe a successful account of what it is to be a genuinely normative, content-independent reason to obey the law *can* be given and I believe that once it is properly understood, we can further see that we very plausibly have content-independent reasons to do as the law demands, and that such reasons may, together with others and sometimes even on their own, obligate us to obey the law.

In what follows, I shall defend these beliefs. I begin with some brief remarks about reasons (Section I), followed by a discussion of the idea of content independence (Section II). I discuss

Hart, *Essays on Bentham* (Oxford: Oxford University Press, 1982), 254–55. I give first a loose characterization of the idea and then a more precise one later in the paper.

[3]Noam Gur, "Actions, Attitudes, and the Obligation to Obey the Law," *Journal of Political Philosophy* 21, no. 3 (September 2013): 326–46, doi:10.1111/jopp.12000 makes a similar claim, citing work by Leslie Green, Kent Greenwalt, David Lyons, Carole Pateman, Joseph Raz, Rolf Sartorius, A. John Simmons, M. B. E. Smith, Robert P. Wolff and A. D. Woozley in support. No doubt many other names could be added to this list. George Klosko also makes a similar claim, citing similar figures, in George Klosko, "Are Political Obligations Content Independent?" *Political Theory* 39, no. 4 (2011): 498–523, doi:10.1177/0090591711408247, as does Matthew Noah Smith, "Legal Truths and Falsities," *Ratio Juris* 22, no. 1 (2009): 95–109, doi:10.1111/j.1467-9337.2008.00414.x. See also William A. Edmundson, "State of the art: the duty to obey the law," *Legal Theory* 10, no. 04 (2004): 215–59, doi:10.1017/S1352325204040236 and the references there.

[4]See P. Markwick, "Law and Content-Independent Reasons," *Oxford Journal of Legal Studies Legal Studies* 20, no. 4 (2000): 579–96, doi:10.1093/ojls/20.4.579, as well as P. Markwick, "Independent of Content," *Legal Theory* 9, no. 01 (March 2003): 43–61, doi:10.1017/S1352325203000028. Stefan Sciaraffa, "On Content-Independent Reasons: It's Not in the Name," *Law and Philosophy* 28, no. 3 (May 2009): 233–60, doi:10.1007/s10982-008-9037-7 argues for a similar conclusion.

and reject some recent challenges to the very possibility of content independence before giving my own view, which is that content independence is best understood in terms of the normative grounding relation. I then defend against some objections. My account of content independence is, I believe, a very natural one, but it has not yet appeared in the literature. Following this discussion, I ask whether we might have such reasons to do as the law demands, and whether such reasons might amount to obligations (Section III). I conclude that, very plausibly, we do. I do not defend the view that we *should* understand legal obligation in this way, nor that we should abandon certain *other attempts* to meet the challenge of legal obligation; I claim only that the plausibility of the view I present gives us sufficient reason to reject the sceptical challenge posed by the philosophical anarchist.

I.

It may help to begin by first offering some definitions and clarifications, if only because the literature on legal obligation has suffered, in my view, from some unclarity about reasons, and because the view of reasons I adopt is not neutral. I follow Scanlon[5] and Parfit[6] in using the 'purely' or 'genuinely' normative concept of a reason, according to which to a reason for us to ϕ may be helpfully redescribed as a fact that counts in favor of our ϕ-ing. To have at least one reason to ϕ is the same as having 'some reason', or simply 'reasons' to ϕ, though we may have some reason to ϕ even when there is some other act that we ought to do instead, because the reasons favoring that act are stronger than our reasons to ϕ.[7] When the balance of reasons counts decisively in favor of our ϕ-ing, in the sense that our reasons to ϕ outweigh any competing reasons not to ϕ, or to do some other act instead, we can say that we have 'decisive reason' to ϕ, which is one other way of saying simply that that we ought to ϕ.[8] If our reasons are such that we may permissibly ϕ, we say that we have 'sufficient reason' to ϕ.

When I speak of someone's 'having' a reason to ϕ, I do not mean to imply anything about this person's own awareness of her reasons, nor about her motivational states. In the way I use the term, a person's having a reason to ϕ is just the same as there being a reason for her to ϕ, which is just the same as there being some fact that counts in favor of her ϕ-ing. Similarly, when I say that some fact 'gives' or 'provides' us a reason to ϕ, I mean only that that fact *is* a reason for us to ϕ, by counting in favor of our ϕ-ing. By extension, when I say that the law gives or provides us a reason to ϕ, I mean that the fact that the law demands that we ϕ is a reason for us to ϕ, or counts in favor of our ϕ-ing.[9]

[5]T. M. Scanlon, *Being Realistic about Reasons* (Oxford: Oxford University Press, 2014), 1–15, doi:10.1093/acprof:oso/9780199678488.001.0001.

[6]Derek Parfit, *On What Matters: Volume 1* (Oxford: Oxford University Press, 2011), 31–37, doi:10.1093/acprof:osobl/9780199572809.001.0001.

[7]Some refer to these as '*pro tanto*' reasons, as a way of indicating that these reasons can weigh together, outweigh, and be outweighed by other reasons. For my purposes here, writing '*pro tanto*' in front of 'reason' does not add anything, as all of the reasons I discuss can weigh together, outweigh, and can be outweighed by other reasons.

[8]There are other senses of 'ought', but I shall stick to the decisive reason-implying sense here.

[9]It may be natural to talk of some people 'giving reasons' to others, but such talk is misleading, and I shall avoid it. It is facts which supply reasons, and the only helpful sense in which people may give reasons to others is by helping create (as by promising or commanding) or by calling attention to (as by pointing out)

When I speak of our 'obligations' or 'duties', including our putative obligation to obey the law, I mean to refer to those things that we *morally ought* to do, or in other words those acts for which there is normally morally decisive reason that we do them.

II.

We can now consider the idea of the *content independence* of certain reasons, including reasons given by the law. Roughly, the idea is that a reason to ϕ is content independent if the reason is given by facts unrelated to (or independent of) ϕ-ing itself, such as by an authoritative command to ϕ. In the case of content-independent 'legal reasons' — the reasons given by acts' being prohibited, permitted, or required by the law — we say that such reasons are to do as the law demands, *whatever* the law demands, no matter the moral, rational, or perhaps even legal merits of what is demanded.[10] Taken another way, the idea of content independence is the thing that we mean by 'because it is the law' when we discuss the claim that we have reasons to obey the law *because it is the law*.[11]

The legal philosopher Paul Markwick has rightly questioned the idea that all reasons are, as such, either content dependent or content independent. Reasons are, I have claimed, facts that count in favor of actions. On this understanding, it is mysterious what it would mean to claim that some reasons bear the fundamental property of content dependence while others bear the fundamental property of content independence. What is the content of a reason, other than the fact that constitutes it, or that fact's propositional content? How could any reason be independent of that? And what would we add to the claim that $[r]$ is a reason for someone to ϕ by making the further claim that that reason is dependent upon or independent of $[r]$? It is not clear that such a claim would even make sense.[12]

Most of those who claim content independence for legal reasons do not take the content in question to be the content of the reason *per se* but rather the thing that the reason is a reason to do. Thus, for some reason to ϕ, the content of that reason is ϕ, or ϕ-ing.[13] It is this that Markwick has in mind when he argues that legal reasons are not distinctively content independent. As I shall now argue, I think Markwick is correct in this view but also partly misled by his argument, so that he rejects the notion of the content independence of legal reasons altogether, as uninteresting or uninformative. I do think legal reasons are not *distinctively* content independent, but I do not think the notion is therefore uninteresting or uninformative. Rather, I think that by better understanding the sense in which legal reasons are often claimed to be content independent, and by seeing how such reasons are not so

such facts. This is *pace* David Enoch, "Reason-Giving and the Law," in *Oxford Studies in Philosophy of Law*, vol. 1, 2011, doi:10.1093/acprof:oso/9780199606443.003.0001.

[10]There may be limiting cases, such as when the law's demands are grossly immoral or, perhaps, when the law's demands are too demanding. I shall ignore such limiting cases for the purposes of this discussion.

[11]This is a loose characterization; I offer a fuller characterization of the idea of content independence further on.

[12]I use brackets to indicate facts: '$[r]$' means 'the fact that r'.

[13]Strictly speaking, it thus seems both more accurate and clearer to refer to ϕ as the *object* of S's reason to ϕ rather than its *content*, but it is probably too late to correct that particular error.

unlike other kinds of normative reasons, we can better see how we might have reasons to obey the law *because it is the law*.

In one paper, Markwick considers the following candidate condition for content independence of reasons:

> If ϕ-ing's F-ness is a reason to ϕ, this reason is content independent if and only if for any other act-type μ, there would be a reason to μ if F were a property of μ-ing.[14]

We can restate this condition briefly as the claim that a reason to act is content independent just in case the reason is given by some property of the act such that, if another act had that property, it would also provide a reason to so-act.

This seems, at first glance, like a good account of content independence. If some act has the property of being required by the law, for instance, and if having this property provides a reason to so-act, then there will be a like reason to do any other act that also has the property of being required by the law. The reason given by the fact that an act is required by the law, then, would appear to be a content independent reason.

Markwick points out, however, that this condition seems to capture too many reason types. Many acts are morally required, for example, and thus share the property of being required by morality. The reasons given by the fact that these acts are morally required thereby meet the condition above for content independence. And yet moral reasons are not typically taken to be content independent. They are, rather, commonly taken to be content *dependent*. We can also ask, if moral reasons are content independent, then which reasons are content dependent? The same point could be made about several other properties typically not thought to confer content independence upon the reasons they provide. Markwick gives two examples: the property of causing unnecessary suffering and the property of maximizing utility. Take the property of causing unnecessary suffering. That an act bears this property is a reason not to do it, and would be a reason not to do any other act bearing this property. Such a reason would thus meet the condition above for content independence. Yet such a reason, as Markwick notes, is commonly taken to be a clear example of a content-*dependent* reason. Or take the property of maximizing utility. According to act utilitarianism, an act is required if and only if it maximizes utility, no matter any other features of the act (e.g. that doing it would break some promise, violate some people's rights, etc.). In other words, we might say, all and only utility-maximizing acts are required, *regardless of their content*. Yet surely, Markwick claims, no act utilitarian would claim that all such acts are required by content-independent reasons. For again, the question could be asked, if these reasons are content independent, then which reasons are content *dependent*? The objection, in brief, is

[14] Markwick, "Law and Content-Independent Reasons," 582. In this paper and in "Independent of Content," Markwick often uses the phrase 'a reason' to ϕ to mean sufficient or decisive reason to ϕ. As I shall argue, however, it is much easier to argue that the law does not in all cases provide, on its own, sufficient reason to do as it demands, than to argue that it does not provide *a reason*, or *any reasons*, to so-act. We should consider the latter claim about reasons first, and only then move on to stronger claims about sufficient and decisive reasons. I should also say, though it is not important to my larger argument, that I think this condition in fact succeeds in picking out content-independent reasons, though it does not amount to much of an account of why it does so, or of what content independence is.

that the fact that it is unclear which reasons might be content dependent casts doubt upon the viability and usefulness of the distinction between content dependence and independence, and further that it is "unclear how content independence is a property which distinguishes legal reasons in particular from reasons in general."[15] If no reasons, or few reasons, are content dependent, or if we cannot use the property to distinguish legal reasons from reasons in general, we might urge along with Markwick that we give up on talk of content independence as an important feature of legal reasons altogether, as uninteresting or uninformative.

Part of the answer to Markwick's challenge is to concede that content independence is not a *distinctive* property of legal reasons but to maintain that, when we claim of some reasons, including legal reasons, that they are content independent, we are making a claim that is nevertheless both interesting and informative. This is because to claim that

> some property of an act gives us a reason to do that act, and gives this reason the property of being content independent

is, in my view, to claim nothing more than that

> this property of the act is normatively significant, in the sense that an act's having it gives us a reason to do that act regardless of any other facts about the act.

It is interesting and informative to claim of some reasons that they are content independent simply because it is interesting and informative to claim of some properties of acts that they are normatively significant, in the sense that they give us reasons to do those acts. It is both interesting, and would be highly informative if true, to claim that an act's maximizing utility gives us a reason to do that act, as the act utilitarian's main thesis claims. If we could truly make a similar claim of many other properties, this too would be highly informative and interesting. Such properties include the property of being loved by the gods, the property of being required by the king, the property of being an act whose maxim everyone could will to be a universal law of nature, and many others, including the property of being demanded by the law. It would be informative and interesting if the property of being demanded by the law were normative, in the sense that an act's having this property provided a reason to do that act *whatever this act may be*. This is why, even conceding that content independence is not a distinctive feature of legal reasons, we may nevertheless claim that it would be interesting and informative if some legal reasons bore that property.

It may seem, I should acknowledge now, that I have already conceded too much. If content independence is not a distinctive property of legal reasons, or if it is just another way of making the obvious claim that some reasons are given by normative properties of acts, then it may be hard to believe that I am indeed making a claim that is interesting or informative. But an important part of my thesis is that legal reasons are *not* as unlike other genuinely normative reasons as is commonly believed, and that when we claim that legal reasons are content independent, we are (at least) tacitly committing ourselves to this conclusion. Furthermore, I believe that understanding this can help to make sense of the ways in which the law may in fact be a source of genuinely normative reasons for action, such that we may truly claim that we have reasons to obey the law *because it is the law*.

[15] ibid., 592.

To see how this is so, it will help to more fully explain my view of content independence. On my view, we should understand claims of content independence as normative grounding claims.[16] When we claim that some fact [p] grounds another fact [q], we can equivalently claim that:

[p] makes [q] true, or makes it the case that q;

[q] is true, or holds, in virtue of [p];

[q] depends on [p];

[q] holds because of [p].

The grounding relation is not, it is worth emphasizing, a causal relation, nor the supervenience relation, nor is it the same as specifying the necessary conditions for some fact to hold — though instances of these other relations may sometimes coincide with instances of the grounding relation. The relation, though difficult to define, is very familiar in normative theorizing, as when, for example,

1. Locke writes that "...this original Law of Nature for the beginning of Property, in what was before common, still takes place; and *by vertue thereof*, what Fish any one catches in the Ocean, that great and still remaining Common of Mankind ... is by the Labour that removes it out of that common state Nature left it in, made his Property who takes that pains about it";[17] or when

2. Ross asks "What *makes* acts right?" and answers that "the ground of the actual rightness of [an] act is that, of all acts possible for the agent in the circumstances, it is that whose *prima facie* rightness in the respects in which it is *prima facie* right most outweighs its *prima facie* wrongness in any respects in which it is *prima facie* wrong";[18] or when

3. Rawls writes that the principles generated in the original position "must hold for everyone *in virtue of* their being moral persons,"[19] or when he writes that the basis of equality lies in "the features of human beings *in virtue of which* they are to be treated in accordance with the principles of justice";[20] or when

[16] I should note that I call claims of content independence *normative* grounding claims only for emphasis and clarity; I do not mean to endorse Fine's view (see below) that the normative grounding relation is importantly different from the metaphysical grounding relation or any other grounding relation. See Selim Berker, "The Unity of Grounding," *Mind*, n.d., forthcoming; Kit Fine, "Guide to Ground," in *Metaphysical Grounding*, ed. Fabrice Correia and Benjamin Schnieder (Cambridge: Cambridge University Press, 2012), 37–80; and Gideon Rosen, "Metaphysical Dependence: Grounding and Reduction," in *Modality: Metaphysics, Logic, and Epistemology*, ed. Bob Hale and Aviv Hoffmann (Oxford: Oxford University Press, 2010), 109–35.

[17] Locke's claim is that [The natural law of property still holds in what was before common] (partly) grounds [By labor of removing it, one may make one's property any fish caught in the ocean]. John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, n.d.), sec. 2.30, my emphasis, Locke's removed.

[18] W. D. Ross, *The Right and the Good*, ed. Philip Stratton-Lake (Oxford: Oxford University Press, n.d.), 46, my emphasis on 'makes'.

[19] Rawls's claim is that [People are moral persons] partly grounds his two principles. John Rawls, *A Theory of Justice*, Revised ed (Cambridge: Harvard University Press, 1999), 114, my emphasis.

[20] The claim here is that the fact that humans possess certain important features grounds both some further

4. Cohen discusses the 'Pareto claim' that "inequality is indeed just when *and because* it has the particular consequence that it causes everyone to be better off";[21] or when

5. Some people claim that a person deserves some treatment *because of* this person's prior acts or bad character.[22]

The grounding relation is normatively indispensable; there are very many other such examples all around us.[23]

The claim that legal reasons are content independent is a claim about which features of the law can make it the case that we have reasons to do as it demands. When we consider the claim that we ought to obey the law *because it is the law*, the 'because' there is the because of grounding. When we consider the claim that it is in virtue of being *against the law* that some act is wrong, rather than due to the 'merits of the act itself', we are considering the claim that some feature of the law that is not also a feature of the act demanded by the law is what makes the act wrongful, or what *grounds* its wrongness.

Put most simply, the claim is that:

> [The law demands that S ϕ] grounds [S has a reason to ϕ].

To claim just that [The law demands that S ϕ] grounds [S has a reason to ϕ], however, may be misleading, for demands do not by themselves ground reasons for action. Rather, it is only in combination with the facts that legitimate those demands that they may do this. If the law's demands can ground reasons for action, there must be some further feature of the law that gives its demands this force.

In many cases, it is worth noting, a legitimate demand may play no part at all in grounding a reason for action. This may be easiest to see by considering a basic case of promising. Suppose I have made you a promise that I will ϕ, and that you subsequently demand that I fulfill my promise. We could not then claim that

> [You demand that I fulfill my promise to ϕ] grounds [I have a reason to ϕ]

because it is not your demand but my promise which grounds the obligation: I would have a reason to fulfill my promise regardless of whether you demanded that I do so or not. More

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fact about humans' moral equality and [Human beings ought to be treated in accordance with the principles of justice]. ibid., 441, my emphasis.

[21] Cohen discusses the claim that [Some inequality makes each better off] grounds [Such inequality is just]. G. A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2009), 89, my emphasis.

[22] To take this last claim as an example, we can reformulate the claim that

> Some person deserves some treatment *because of* his prior acts

as the claim that

> The fact that some person deserves some treatment is *made true by* the facts about his prior acts.

[23] I have given only a few easy examples. A search of works in moral and political philosophy for the terms 'in virtue of', 'makes it the case that', and 'when and because' will give a sense of just how often the normative grounding relation is appealed to. Nor is this a distinctively contemporary or even modern phenomenon. When Plato's Euthyphro asks whether acts are pious because the gods love them or loved by the gods because they are pious, he is asking a question about normative grounding.

fully, it is in virtue of my having made a promise to you both that you may make a genuine normative demand of me that I fulfill my promise *and* that I have a reason to do so.

By contrast, some demands may seem to *by themselves* ground reasons for action. Certain demands by those we love, for example, or to whom we otherwise have special obligations, may seem to be clear cases of this kind. If your child demands love and attention, for instance, it may seem that

> [Your child demands love and attention] grounds [You have a reason to give your child love and attention].

But even in this case, it would be better to claim that your child's demand *together with* your special obligations to your child ground your reason for action. To claim only that your child's demand grounds your reason for action would be misleading, and to claim that your child's demand *by itself* grounds your reason for action would be false.

Similar remarks apply to the law's demands on us. In order to make plausible the claim that the law's demands ground reasons for action, we need to identify some property or properties of the law in virtue of which its demands are genuinely normative. In other words, it is only in virtue of some normative property or properties of the law *together with* the fact that the law makes specific demands of us that we may come to have reasons to do as it demands. We should therefore consider the revised claim that:

> [The law has some properties {P}] and [The law demands that S ϕ] together ground [S has a reason to ϕ].

Note that we are now discussing the possibility of several facts together grounding a single fact. To understand this, it may help to make explicit my assumption that not all grounding relations between one fact and another are relations of *full grounding*; many are relations of *partial grounding*. One fact [p] partially grounds another [q] when [p] *helps* make [q] true, or *helps* make it the case that [q], or when [q] holds *partly* in virtue of, or *partly* because of, [p]. The fact that S has a reason to ϕ, for example, would *partially ground* the fact that S ought to ϕ, by contributing to the set of reasons for S to ϕ. The set of reasons such that S has more reason to ϕ than to do any alternative act *fully ground* the fact that S has decisive reason to ϕ, by fully making it the case that S ought to ϕ.[24] The claim I wish to make may indeed be more fully stated as the claim that:

> Each of the facts [The law has some properties {P}] and [The law demands that S ϕ] partially ground, and together fully ground, [S has a reason to ϕ].[25]

[24] There are also many non-normative examples of the distinction between full and partial grounding, which may be clearer: [The apple is golden and delicious] is fully grounded by [The apple is golden] and [The apple is delicious] *together*, and partially grounded by each of those facts *separately*.

[25] One of the law's properties is of course that it demands that S ϕ, and another is, presumably, that it demands that a certain set of people including but not solely consisting of S ϕ. The first would merely repeat [The law demands that S ϕ], since to make this claim is to make the claim that the law has the property of demanding that S ϕ, so would not in that case constitute additional partial grounding for [S has a reason to ϕ]. As for the second, to claim that that the wider [The law demands that a set of people {S, ...} ϕ] together with its instantiation [The law demands that S ϕ] grounds (if indeed it does ground) [S has a reason to ϕ] is not importantly different from simply claiming that the instantiation alone can do this work.

This claim about the content independence of legal reasons can be made in other, equivalent ways. The grounding claim made by claims of content independence of the law is also a claim about what *does not fully ground* a person's reason for action. Namely, it is the claim that the fact that a law demands that S ϕ, and indeed all facts about ϕ-ing, *do not fully ground* the reason given by the law for S to ϕ. Or in other words, the legal reason for S to ϕ is *independent* of facts about ϕ-ing, where 'independent' is to be understood as a negative grounding claim. The *positive* grounding claim is that when S has a content independent reason to obey the law's demand that S ϕ, this reason is at least partially grounded by some fact or facts about the law *that are not also facts about ϕ-ing.* These facts are about the normative properties of the law in general, as distinct from any particular action the law requires or forbids.

Understanding the claim that legal reasons provide content independent reasons for action as a claim about grounding helps make sense of a number of cases in which, intuitively, it may be unclear whether the law provides a genuinely normative, content independent reason to do as it demands. Imagine, for instance, a society in which the law is merely a codification of morality, such as the Israelite tribe under Moses: Moses's tablets, we can imagine, were a codification of the independently normative moral truths given the Israelites by God. We might then imagine one Israelite appealing to another, more murderously inclined Israelite that the tablets forbid killing. "You mustn't kill, because it's against the law," the one might say. What should we make of the first Israelite's appeal to the second?

Let's grant that the second Israelite in fact has a reason not to kill. If the first Israelite's appeal is meant to make a claim about what grounds the second Israelite's reason, then that claim is false, since the fact that 'THOU SHALT NOT KILL' is written on Moses's tablets certainly does not ground the second Israelite's reason not to kill — it is rather the moral prohibition on killing, given to the Israelites by God and recorded by Moses on the tablets, that does this. Just as the wind's happening to spell out 'THOU SHALT NOT KILL' in the sand would not itself be a reason not to kill, etchings of God's moral law in stone would not themselves provide reasons for action. Only speaking loosely may we claim that an act's being prohibited by Moses's tablets is a reason for the Israelites not to do it, and when we make such a claim, it must be either false or else, more charitably, be a shorthand way of making the more accurate claim that the act is prohibited by God. This is because, in the case we are imagining, God's prohibition is genuinely normative, whereas being codified on Moses's tablets, or being written by the wind in the sand, is not.

More generally, when demanding that for each morally required act, S do that act, we would make a mistake by claiming that

> [The law codifies morality] and [The law demands that S ϕ] together ground [S has a reason to ϕ].

For it would be in virtue of ϕ-ing's being morally required, rather than in virtue of the law's demanding or codifying that S ϕ, that S has a reason to ϕ. These further facts about the law would add nothing to the normative grounds for S's ϕ-ing, which is to say would not help to make it the case that S has a reason to ϕ. In the same way, if I told you truly that you ought morally to do some act, and even if I *always* told you truly what the thing was you ought to

do, it would be in virtue of this act's being a moral requirement, rather than in virtue of my telling you so, that you ought to do it. In this way, the law cannot be said to provide content-independent reasons for action in cases in which it is merely a codification of more fundamental normative facts.

Similarly, we can, by understanding content independence as an idea about normative grounding, better understand the sense in which Markwick rightly claims that legal reasons are not *distinctively* content independent. The claim that legal reasons are content independent is no more than the claim that some *legal* property of these reasons, such as (say) that it was passed by a democratic assembly, or that it solves some coordination problem — rather than something about what it is these legal reasons are reasons to do — is what *makes it the case* that they are genuinely normative for those to whom they apply; just as, according to one widely held view, moral reasons are made genuinely normative not by facts about what they are reasons to do but by facts about morality, such as that the act for which the reason counts in favor would maximize utility, or is an act that no one could reasonably reject, or is an act that is in conformity with a maxim that could be willed to be a universal law, and so on. But we can also in this way understand why the further worry that, by failing to be distinctive, the content independence of legal reasons may be uninformative or uninteresting, is misplaced. For the claim that legal reasons are content independent is the important and substantive claim that the law, like morality, can be a source of genuinely normatively reasons for action, rather than merely a way of calling attention to reasons whose real normative force lies elsewhere.

It may be here objected that *any* normative force the law has must be had in virtue of some prior normative facts, and that in view of this, no obligation to do as the law demands may be said to hold in virtue of facts about the law. This objection may take two forms. On the first, the complaint is that the law is, like Moses's tablets, a mere codification of some other normative facts, and that thus we may not properly claim that it is *the law* which grounds our reasons to do as it demands.

To answer this first version of the objection, it is important to understand the sense in which one fact's grounding another provides a non-causal *explanation* for the second fact. [The apple is golden] and [The apple is delicious] together ground *and thereby explain* [The apple is golden and delicious]. Similarly, according to act utilitarians, the claim that [The act would maximize utility] grounds *and thereby explains* [The act is required]. By contrast, if we imagine some person who always speaks truly, [This person says that the apple is golden and delicious] *would not* ground [The apple is golden and delicious], because this person's claim, though true, would *not explain* [This apple is golden and delicious]. Nor would, for the act utilitarian, [This person says that the act is required] ground or explain [The act is required]. To *explain* in this non-causal way seems to be part of what it is to *ground*.

Now compare two similar cases. In the first, suppose that some king's dictates are independently normatively binding on his subjects, and suppose further that those dictates are published in a book of codes. In one sense, we could plausibly claim that [This act is prohibited by the codebook] grounds [This act mustn't be done], but only insofar as [This act is prohibited by the codebook] refers not to the physical book but to the abstract collection of dictates recorded there, so that [This act is prohibited by the codebook] is a shorthand

for [This act is prohibited by the king's dictates]. This is like the way in which we can only truly claim that an act's being prohibited by Moses's tablets grounds our reasons not to do this act if we more fully mean that it is God's prohibition, which the tablets record, that grounds our reason not to do this act. In this way, there is an important sense in which we may properly say that an act's being prohibited by the codebook non-causally *explains* the fact that we mustn't do this act.

In the second case, suppose that some unofficial observer privately records the king's dictates in a notebook. In contrast with the first case, we could not then plausibly claim that [This act is prohibited by the notebook] grounds [This act mustn't be done], because the notebook is a mere private record of the king's dictates, and [This act is prohibited by the notebook] could not plausibly be a shorthand for the claim that the act is prohibited by the king. It is more like the wind writing 'THOU SHALT NOT KILL' in the sand, or like, when I truly tell you that you ought not to do some act, it is not my telling you so that explains the fact that you ought not to do it. There is no sense in which being prohibited by the notebook non-causally explains the fact that some act mustn't be done.

When we claim that

> [The law has some properties {P}] and [The law demands that S ϕ] together ground [S has a reason to ϕ]

we are, as in the first case, making a non-causal explanatory claim. There will be further facts which ground the fact that the law has such properties, as well as, more pertinently, further facts about what makes those properties give the law normative force. If there are such properties of the law, however, which together with its demands ground reasons for us to obey it, we may properly say that those facts ground reasons for action, and we may properly refer to such reasons as reasons to obey the law, because it is the law.

A second version of this objection argues that, when we claim that some properties of the law help ground a reason for us to do as it demands, we ought instead to claim that it is *those* properties, or whatever grounds *them*, that ground our reasons to do as the law demands, rather than the law itself. If some facts about the democratic origins of a law, for instance, are what make it the case that we have a reason to do as it demands, then, according to this objection, we should say that it is those origins, rather than the law itself, which give us such a reason. We should, on this objection, follow the normative grounding 'all the way back', and then make any grounding claims in terms of those fundamental normative grounds.

One answer to this objection is to agree that we may often be able to make grounding claims in terms of other, more fundamental grounds by following the chain of grounding 'back', but to deny that such a move is always better. Indeed, it may on many occasions be worse to do this. When claiming that

> [The apple is golden] and [The apple is delicious] together ground [The apple is golden and delicious]

it may not help, or it may be unnecessary, to reformulate the claim in terms of the very many further facts which ground [The apple is golden] and [The apple is delicious] separately. The same may be said of the facts that ground our reasons to obey the law.

Another answer to this objection is to remark that, even if some property of the law, such as its democratic origins,[26] is what *helps* make it the case that we have a reason to do as the law demands, the fact that the law has such a property could not on its own, or fully, ground such a reason. In other words, although we might make the specific claim that

> [The law's origins are democratic] *partially* grounds [S has a reason to ϕ],

it would be misleading to claim simply that [The law's origins are democratic] grounds [S has a reason to ϕ] because it is not only the fact that the law has this property, but also the fact that the law demands that S ϕ — that is, S as a specific subject and ϕ as a specific act — which together *fully* ground the fact that S has a reason to ϕ. Alternatively, though we might, in the case we are imagining, truly claim that

> [The law's origins are democratic] fully grounds [Subjects of the law have a reason to obey the law],[27]

we would, in order to make a specific claim about what grounds S's reason to ϕ, need to claim that

> [The law's origins are democratic] and [The law demands that S ϕ] together ground [S has a reason to ϕ].

We could not then, as this version of the objection urges, make the grounding claim only in terms of some fact or set of facts about the law's properties. And we should therefore *not* say that it is the law's origins, rather than the law itself, which give us a reason to do as it demands.

It should be said too that when considering which properties {P} may help ground our reasons to do as the law demands, not just any properties will do. For, as I have argued, the property that the law codifies morality could not partly ground a reason for action. The properties in question must be, rather, *distinctive properties of the law* in order to be able to help ground a reason to obey the law, in the way that, for example, we might call some law's democratic origin, or its being part of a certain kind of fair system of social cooperation, or its being issued by a lawgiving body whose authority was consented to, such distinctive properties.[28] While we could make the grounding claim only in these terms, we could also

[26]The bare fact that some law has 'democratic origins' is, of course, not on its own a plausible candidate for the kind of fact that could, together with the fact that the law demands that S ϕ, ground the fact that S has a reason to ϕ. I use this only as an easy example, and as a shorthand for a more complex but plausibly legitimating fact about the provenance of the law. Similar remarks apply to my claims below about the sense in which a law's democratic origins might, for instance, be thought to be a distinctive property of the law.

[27]Whether we could in fact truly claim that [The law's origins are democratic] fully grounds [Subjects of the law have a reason to obey the law] depends very much on the more precise, 'unpacked' meaning of [The law's origins are democratic] and in what way that property might be thought to be normatively significant. It should be noted, of course, that the mere fact that some people vote on some question is often not normatively significant at all.

[28]We can also see in this way how some putatively or apparently normative properties of the law might fail to be truly normative. If a democratic lawmaking process, and the laws it produces, are justified because those laws are more likely to accurately reflect underlying moral demands, this may ground a reason to *believe* that we ought to do as the law demands, but it could not itself ground a further reason to *so-act*.

It is also worth remembering that we are searching for non-prudential reasons to obey the law. We could

usefully summarize this grounding claim as a claim about why we have reasons to obey the law, because it is the law. In other words, we may call the reasons grounded in these ways *legal reasons*, and we may claim that learning we have such reasons tells us something important about the normativity of *the law* rather than merely about some other familiar sources of normativity. If we learn that democratic lawmaking, or legal fair play, or consent to the law can help ground such reasons, we learn something not only about the normativity of democracy, fairness, or consent, but about the law itself.

III.

Even if it may be claimed, as I've argued it may, that there *could be* genuinely normative, content-independent legal reasons for action, it remains to be shown that such reasons do in fact exist (or, as I shall more modestly claim, that it is plausible that such reasons exist). We can turn finally, then, to the question of whether, and in what sense, we might truly claim about the law that it provides such reasons.

Let us begin with the easier issue of *in what sense* we might truly make such claims. It is telling here that the 'traditional question' in the study of legal obligation, and indeed the name of the field itself, concerns not *reasons* to obey the law but our *obligation* to do as it demands. We may restate this traditional question of whether we are *obligated* to obey the law, because it is the law, as the question:

> Does the law provide genuinely normative, content-independent, and *normally decisive* reason to do as it demands?

In order to answer Yes to this question, we would need to identify some property or properties of the law which, together with the law's demanding that we act, fully ground our having normally decisive reason to so-act.[29]

I do not doubt that historically, some have thought it plausible to provide an affirmative answer to the traditional question and to identify such properties. We might, for instance, agree with the First Vatican Council that

1. The Pope is the earthly representative of God and is preserved from the possibility of error,

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imagine that one property of the law is that some tyrant will harshly punish anyone in its domain who doesn't obey it. The fact that the law has this property, together with the fact that it demands that S ϕ, would give S a reason to ϕ. But such a reason would be merely prudential; and while it would be in one sense content independent, that would be because the tyrant's threat is content independent, not because the law is. In other words, the normative force of that reason would come from the tyrant's threat, not from some distinctive property of the law.

[29]It is important to note at this point that some theories use the idea of an obligatory act to mean something other than an act there is decisive reason to do, such as for instance an act we have personal, or partial reasons to do (in the sense that we may claim to have 'special obligations' to our friends and families, or to compatriots). I do not think that such theories provide positive answers to the traditional question at all; rather, I think they are theories about when we have certain special *reasons*, and so are allied more closely to the view I am proposing.

2. The law as handed down by the Pope (the 'Pope's law') is normatively binding, in the sense that we each have decisive reason to do as it demands,

and that therefore

3. The Pope's law provides each of us with genuinely normative, content-independent, and decisive reason to do as it demands.[30]

Such defenses of the affirmative answer to the traditional question do not, however, strike me as plausible, nor do I suppose they strike many as plausible today. And yet, despite this, writers persist in treating the traditional question as the one that demands an answer.[31] This insistence, unsurprisingly, has led many to answer No, and instead to endorse some version of philosophical anarchism. For if we must endorse either the view that the law always gives us genuinely normative, content-independent, and *decisive* reason to do as it demands, or the view that it gives us no reasons at all, the anarchist's choice is clearly the best one. Faced with such a dilemma, it would be difficult to adopt any other position.

But this dilemma, I think it is clear, is a false one. In order to avoid the anarchist's conclusion, we need not expect the law to give us normally decisive reason to do as it demands (though we may with to search for a theory that accomplishes this for other reasons).[32] Rather, we need only expect the law in many cases to *add to the balance of reasons* in favor of doing as it demands, by providing *some reason* for action. The strength of the reasons so-provided by the law may vary according to which property or properties give it normative force, but the reasons should be perceptible nonetheless when we look for them. Often, such reasons may do the more important job not merely of providing some reason to act but of contributing, alongside other reasons, to making it the case that we ought to do as the law demands, in the decisive reason-implying sense — and thus in part, we can add, to contributing to making it the case that we ought to do the thing the law demands *because the law demands it*. And occasionally, or so I shall argue, legal reasons may ground our obligations to do as the law demands not merely *in part* but rather *fully make it the case* that we ought to do as the law demands. In this way, then, we can see the law as giving us genuinely normative, content-independent reasons to do as it demands, in a way that does not amount or tend to any version of philosophical anarchism.

We can now turn to the more difficult question,

> Which property or properties of the law, together with its demanding that we act, may plausibly give us a reason to so-act?

[30]Here, as before, it is helpful if we understand the Pope's law as something more than a mere codification of God's law.

[31]Joseph Raz, *The Morality of Freedom* (Clarendon Press, 1986), doi:10.1093/0198248075.001.0001 certainly has it in mind in his famous chapter on political obligation; and, more recently, so do Leslie Green, William Edmundson, and Matthew Noah Smith: Leslie Green, "Legal Obligation and Authority," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, 2012, Edmundson, "State of the art: the duty to obey the law.", and Matthew Noah Smith, "Political Obligation and the Self," *Philosophy and Phenomenological Research* 86, no. 2 (2013): 347–75, doi:10.1111/j.1933-1592.2011.00526.x. This is of course only a partial list.

[32]I think we should make this claim even if we believe, as some do, that the law claims for itself the authority to create obligations, in the decisive reason-implying sense.

It is worth emphasizing again that I shall pursue only the modest goal of attempting to show that certain properties of the law may *plausibly* help give us genuinely normative, content-independent legal reasons for action, rather than attempting to mount a conclusive or even very strong argument that they do so. This is because, I claim, if such a view is merely *plausible*, we may reject the anarchist's claim that the law can never provide such reasons. I shall do this by briefly (if somewhat tediously) sketching the ways in which theories of political and legal *obligation* may be easily and plausibly recast as theories of political and legal *reasons*. And although this weakens these theories, it also makes them more plausibly *true*. Moreover, though this is not my main concern, recasting these theories may help us to more clearly see how these theories might *together* give us something resembling a patchwork obligation to obey the law.[33]

I should first point out that many of the leading non-voluntarist theories of political and legal obligation may be recast as more modest theories of sources of political and legal reasons. Fair play theories provide a clear example. When Nozick objects, for instance, that we cannot come under an obligation to others simply because they have conferred some benefit upon us,[34] we may answer that the conferral of certain benefits may nonetheless generate *some reasons* for us to participate appropriately in the system of benefits. Such an answer is plausible even in his famous public address system case: when it is your turn, you are, let us agree, not obligated to perform, in the sense that you do not have a decisive reason to do so, but if you have enjoyed the fruits of the cooperative enterprise, then you may plausibly have *some reasons* of fairness to do your part in the future. In the analog case of the state, this may result in reasons of fairness to obey the law. (I do not argue that this is clearly true, only that it is very plausibly true — and much more plausibly true than its original obligatory counterpart.)

Or, to take a similar example, when George Klosko claims that:

1. If some state is a cooperative enterprise, and
2. If this state, through its laws, provides its citizens with presumptively beneficial, fairly distributed goods

He might conclude either that

3. The state's citizens have an obligation of fairness to obey its laws

or instead, more modestly that

4. The state's citizens have reasons of fairness to do as its laws demand.

Klosko's conclusion is in fact (3) but it needn't be. (4) is a weaker conclusion, and is thus easier to establish and open to fewer objections. It is also, I think, much more immediately plausibly true. The reasons given by (4) may or may not amount to an obligation to do as the law demands, but would rather provide us with *some reasons*, by counting in favor of our doing so.

[33]See G. Klosko, "Multiple Principles of Political Obligation," *Political Theory* 32, no. 6 (December 2004): 801–24, doi:10.1177/0090591704265933, with which I see the view I present here as aligned.

[34]Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 90–95.

Note here one important fact, which is that for theories like this fair play theory to successfully give us genuinely normative content-independent *legal* reasons for action, it must be some part of *the law* that provides us with the goods receipt of which grounds our reasons to obey the law's demands. That is to say, if we have reasons in virtue of some principle of fairness to do our part in some collective enterprise, those reasons are only *legal reasons* of the kind we have been here discussing if the product of the collective enterprise is in some way secured *by the law*. Otherwise, our reasons to do our part will be just that, and any specifically legal demand that we do so will merely restate those reasons rather than giving us new, additional ones.

Other non-voluntarist theories of political and legal obligation may be similarly recast in this way, including theories built around principles of gratitude, samaritanism, and natural duty. That is because all such theories identify some moral principle that, they argue, is operative in virtue of the existence or some other feature of the law. Any such theory, as in the case of fair play theories, may more easily establish that the moral principles they identify provide some reason to obey the law than that they provide normally decisive reasons to do so.

Recasting these theories in this way has benefits beyond making their conclusions easier to establish. Understood as independent sources of reasons to obey the law, these theories may be very naturally combined to generate stronger reasons to obey the law than any one of them provides on its own. It may also be the case that some principles provide reasons to obey the law in only some rather than all domains, or reasons whose strength varies across different domains of the law. Combining such principles may allow us to claim that there are widespread reasons to obey the law, because it is the law, in ways that would be impossible drawing on any one principle alone. Acknowledging this possibility, moreover, may help our theories better match our sense that it is in some cases much more important to obey the law than in other cases. The question facing these recast theories is thus not 'Is the principle relied upon by this theory sufficient to generate wide-ranging obligations to do as the law demands?' but, much more modestly, 'Does the principle relied upon by this theory generate reasons to do as the law demands?'.

A similar point may be made about theories attempting to ground an obligation to obey the law in the fact of some laws' democratic provenance. Such theories claim that

> [L was generated by a democratic process] and [L demands that S ϕ] together ground [S has an obligation to ϕ]

Naturally, however, we might instead make the more modest claim that

> [L was generated by a democratic process] and [L demands that S ϕ] together ground [S has a reason to ϕ]

In these claims, of course, [L was generated by a democratic process] stands in for a more complex statement of the feature or features had by democratic laws in virtue of which those subject to them may be obligated or have reason to do as they demand. When Thomas Christiano argues, for instance, that (roughly):

> Democratically created laws treat each citizen equally with respect to certain questions about what we together should do, regarding which no one has greater

claim or standing to give an answer than any other,[35]

he is arguing that it is *this* more specific feature of democratically created laws which in part grounds our obligation to obey those laws.

This is not, I should say again, the place to engage in a discussion of whether Christiano's claims, or those of other democratic theorists, about democratic political obligation succeed, nor do I here mean to endorse either Christiano's claim to that effect or my suggested weaker version of that claim. Rather, I mean only to claim that Christiano's argument provides one plausible account of the source of genuinely normative, content-independent reasons to do as the law demands; and that, as with the non-voluntarist accounts I made similar claims regarding earlier, such an account of the source of legal reasons may be combined with others, and may vary in presence and strength across different domains of the law.

Some consent theories may also be recast in this way. According to consent theories,

S is obligated to obey L just when and because some combination of (1–3) holds:

1.	*ordinary consent*	S has consented to do as L demands; or
2.	*conditional consent*	S would so-consent if S knew all the facts, deliberated rationally, and so on; or
3.	*normative consent*	S should so-consent.[36]

Of course, if S has consented to obey the law, it may often be accurate to claim that S is obligated to do as it demands, because S's consent grounds a normally decisive reason to do so. But it is worth emphasizing with respect to conditional and normative consent theories that these theories may be much more plausible as theories of the sources of *reasons* to so as the law demands rather than the sources of *obligations* to do so. It is much more plausible, for example, to argue that the fact that S would consent under certain circumstances to obey the law gives S a reason to obey the law, than to argue that S's conditional consent gives S an obligation to obey the law. (Of course, such a reason may *alongside others* amount to a decisive reason. In this way, conditional or normative consent to a law may partially ground an obligation to obey it.)

There is one other plausible source of genuinely normative, content-independent reasons to obey the law that I wish to take some time over here, because I believe it may be of particular importance. This source is the law's often unique ability to solve coordination problems.

It will help to consider the case of traffic laws. Those of us who drive each have some reasons *not* given by the law to drive in certain ways: these can be helpfully summed up by saying that we have all the summary reason to *drive safely*. One of the reasons summarized by this reason is the reason we all have to drive on one side of the road; another is to drive at a safe

[35]Thomas Christiano, "The Authority of Democracy," *Journal of Political Philosophy* 12, no. 3 (September 2004): 266–90, doi:10.1111/j.1467-9760.2004.00200.x.

[36]Hobbes may, I believe, be thought of as a forerunner of this kind of view. Recently the view has been most notably developed by David Estlund, *Democratic Authority* (Princeton: Princeton University Press, 2008), to whom the term 'normative consent' is also due.

speed. But these reasons are in an important sense incomplete. If we are driving, say, on many highways in the United States, we have reasons to drive on the *right* side of the road and to drive in the vicinity of 65 MPH. When we are in other places and on other roads, these reasons change. But wherever we are, these reasons are grounded by facts about the law.

This last claim might be doubted. The speed at which we have reason to drive on some road, for instance, is determined partly by the road itself, by the capabilities of our cars, and by how fast and how many others are traveling. It may seem that the legal speed limit is superfluous, or that it merely formalizes these other reasons. But this argument neglects the further reason we all have to drive in the vicinity of some single, particular speed. Which speed this is may be *limited* by the road, our cars, and how many of us there are, but this speed is not *fully determined* by these facts. The law accomplishes this latter task.

Similarly, it may be rightly pointed out that the law is not a necessary ground of our reasons to drive on this or that side of the road. If there were no law concerning which side of the road to drive on, people might just work out for themselves some convention. If they did, these people would have a reason to drive on whichever side of the road that convention dictated. Equally, if the law in some place demanded that we all drive on the left, whereas in fact everyone followed the practice of driving on the right, each driver would have most reason to drive on the right — and it is plausible to think that each driver would have *no reason* to drive on the left.

But this is not an objection to the view I am here defending. I do not claim that the law is a necessary ground for our reasons to drive on one side or another, or to drive at a certain speed; I am claiming only that it is *in fact* the ground of many of our actual such reasons. It is not enough to say that we each have a reason to drive on the side of the road on which most other drivers drive. *We together* must at some point take some actions or decisions which determine the particular side that is. This could take the form of legislation, or it could be established through more complex patterns of convention. In the actual case of the United States, I submit that it is the law that secures the relevant convention; it is the fact that the law demands that we drive on the right which partially grounds our reason to drive on the right. In other words, we cannot state the facts which ground

> we each have reason to drive on the right side of the road in the United States

or

> we each have reason to drive near 65 MPH on certain highways in the United States

without making reference to the fact that the law demands that we do so. We may thus, as I argued earlier, call our reasons to drive in these ways *content-independent legal reasons.*

Reasons given by coordination problems solved by the law such as these may be, I believe, quite weighty reasons. Very seldom will I have sufficient reasons to drive on the side of the road other than the side demanded by the law. I think it is therefore fair to say that we are *obligated* to drive on the side of the road demanded by the law, and we are so-obligated *because it is what the law demands.*

We can next observe that traffic laws are not a special case, but rather one of very many sets of laws whose purpose is to solve coordination problems. I shall not defend this claim at length here, except to mention that many of the core functions of political organization are to help us live our lives together, and include the establishment of property regimes, monetary systems, rules of exchange, and indeed traffic laws, all of which are at least partly conventional; and so the reasons we may have with respect to these domains of law will be at least partly grounded in the fact of the law's demands.[37] If I am right that conventionally-determined reasons of this kind are genuinely normative, content-independent legal reasons for action, then it seems that they are quite widespread and quite forceful. On their own they might license my claim that we do plausibly often have genuinely normative, content-independent reasons to obey the law; and combined with the other plausible sources of such reasons I have already mentioned, we may well be obligated to obey the law, because it is the law, much more often than we might otherwise have thought.

Conclusion

It may now help to sum up some of my main claims. I have argued that when we consider the question,

> Do we have reasons to do as the law demands, because it is what the law demands?

we should understand the 'because' in the question as the because of grounding. On the view I have defended, if we have such reasons, it is because there is some fact about the law that at least partially grounds the fact that we have such a reason. This, on my view, is what we should mean when we claim that the law may be a source of content-independent reasons to do as it demands. Indeed, I think we might do well to stop talking in terms of content independence altogether.

I argued next that, once we see that this is what it is to be a content-independent reason to obey the law, we can see that we very plausibly have many such reasons, which may indeed together work to obligate us to the law's demands. I suggested that a patchwork view of legal obligation such as this is worth considering on its own merits, though my main claim was that the very plausibility of such a view gives us good reason to reject the anarchist's challenge. We need not be philosophical anarchists just because we believe that no one theory of political and legal obligation has successfully established such an obligation. We could, I suggested, be engaged in the more modest enterprise of looking for reasons to obey the law, and then investigating their strength and the domains over which they range. In this way, I believe, we are likely to find a picture of our reasons for obeying the law that more accurately

[37] On Arthur Ripstein's construction of Kant's political philosophy, it is plausible to think that nearly all of our duties are 'completed' in this way by the state and the state's laws. For some considerations along these lines, see Arthur Ripstein, *Force and Freedom* (Cambridge: Harvard University Press, 2009); as well as Japa Pallikkathayil, "Deriving Morality from Politics: Rethinking the Formula of Humanity," *Ethics* 121, no. 1 (2010): 116–47, doi:10.1086/656041; as well as A. J. Julius, "Independent people," in *Freedom and Force: Essays on Kant's Legal Philosophy*, ed. Sari Kisilevsky and Martin Stone (London: Hart, 2017), and A. J. Julius, "Public Transit," in *Reasons and Intentions in Law and Practical Agency* (Cambridge: Cambridge University Press, 2015).

reflects our considered reflections, and, importantly, a picture of our reasons for obeying the law that does not tend toward anarchism.

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