

PLURALISTIC MODELS OF POLITICAL OBLIGATION

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ABSTRACT

Many theorists assume that to solve the problem of political obligation it is necessary to appeal to one principle or argument which shows that all citizens have political obligations, every citizen having the same political obligations as every other. This approach makes several assumptions, all of which can be questioned. Rejecting these assumptions opens the way for various pluralistic models of political obligations

What is the problem of political obligation? What would count as a solution? In this paper I hope to show that a number of often unstated assumptions lay behind much recent work on this topic. All of these assumptions are controversial, and, in my view, all should be rejected. Indeed, some of them are implicitly or explicitly rejected by many writers in the field. But the possibilities that open up by rejecting these assumptions have rarely been explored in any depth. The way is open for various pluralistic models of political obligation.

In the first section of this paper I will provide a general classification of theories of political obligation, while in the second section I shall present the assumptions which, I claim, are an obstacle to progress. Then I shall give my reasons for questioning these assumptions, and explore the new models of political obligation which become possible once the assumptions are rejected. Finally I shall consider the vexed question of which of the various models we should favour.

1. *Theories of Political Obligation*

How should we classify different approaches to political obligation? It has become customary to think of theories as falling under a small number of general heads: perhaps theories of contract, consent, gratitude, fairness, reciprocity, utilitarianism and now communitarianism, with philosophical anarchism and the 'no-problem' theory as limit cases. Each of these theories appears in several importantly different versions, each version with further variants. The justification for such a classification is largely historical: these are the theories that have been influential throughout the history of the subject, and are still discussed (unlike, say, Divine Right theory).

There have, of course, been various attempts to impose a more systematic form of classification, and it will suit my purposes in this essay to propose a three-way scheme. The scheme takes as its central concepts what we can, for short, refer to as ideas of rationality, reciprocity and reasonableness.¹ The general idea is that rational solutions appeal to ideas of self-interest to ground political obligations, reciprocity solutions appeal to ideas of fair exchange, while reasonable solutions appeal to ideas of justice. By definition I want to say that a theory is rational (in this sense) only if it is a necessary condition of legitimacy or acceptableness of a scheme that it furthers each individual's self-interest; it is reciprocal only if it is a necessary condition of legitimacy or acceptableness of a scheme that it appeals to the idea of an individual making some of due or proportional payment for the benefits received (or receiving payment for burdens undertaken); and it is reasonable only if it appeals to ideas of justice which cannot be reduced to the former two categories.²

Some forms of contract theory most obviously fall under the heading of rational theories, as do theories that appeal to the idea of mutual advantage. Reciprocity theories include gratitude theories, and, most importantly, fairness theories, whereas reasonableness theories include

¹ My use of these terms has obvious affinities with their use in Rawls 1993, Gibbard 1991 and Barry 1989 and 1995. For further discussion see Wolff 1996b

² I do not claim that these categories are exhaustive, or, even, that it is easy to tell to which category a particular theory belongs. Communitarian theories, for example, might be particularly awkward to place in these terms.

those which incorporate ideas of distributive justice, as well as utilitarian theory, together with certain forms of hypothetical contract theories. Reasonableness theories are characterised by the thought that it can sometimes be legitimate to require people to engage in behaviour which delivers them a net loss: something that would not be so on a rational or reciprocal theory.

As defined, reciprocal theories are a special case of rational theories. Although individuals in a reciprocal scheme are required to pay for benefits received, there would be no point to the scheme unless the total benefits exceed the total costs, and it is assumed that there will be a failure of reciprocity unless all share in the surplus. Thus all reciprocal principles are rational. But the converse implication does not hold. Rational theories have no place for the idea of proportionality, and so cannot be guaranteed to yield reciprocal solutions. We can see this most clearly in the way rational advantage works in a bargaining situation. Rational bargainers are rewarded according to such things as their threat advantage and power. Reward according to contribution is — coincidentally — one possible outcome, but outcomes in no way correlated with contribution are equally possible.

Still clearer is the point that rational principles and reciprocal theories cannot normally be expected to yield reasonable (just) outcomes, even though sometimes accidentally they might. The point is that in rational and reciprocal theories there is no place for an individual to make a net loss, although this is sometimes required by justice: utilitarianism is an obvious example, egalitarianism another.

The distinction between rational, reciprocal and reasonable theories is a way of classifying theories, rather than a distinction between actual theories. What I have said is that a theory falls into a certain category if it lays down a certain necessary condition for the legitimacy of a particular arrangement. But actual theories are bound to build in further conditions. For the purposes of this paper, though, I will say very little about how these theories are to be further elaborated, except where necessary for the argument.

2. *The Assumptions.*

Broadly, then, we have noted three types of theories of political obligation: being compelled to obey the law is to our mutual advantage; or it is required by some notion of reciprocity; or required by a concern for justice. Which of these arguments should we prefer?

But must we choose between them? I claimed above that no single principle can be guaranteed to exemplify more than one of these notions (with the exception that reciprocal principles are also rational, on the definition given). But it does not follow that we cannot combine more than one principle in a more complex account. As a methodological hunch (one I cannot defend here, or, perhaps, anywhere) it seems to me that it is unlikely that many richly articulated theories in philosophy — or at least in political philosophy — are *wholly* in error. Most mistaken theories contain valuable insights, even if those insights are exaggerated, distorted, or mistake partial truth for entire.

This hunch suggests a synthetic project: putting together the insights from different approaches to generate an account of political obligation combining the best of each. Yet what we could call the standard methodology for political obligation stands in our way. A number of assumptions — some more widely recognised than others — have tended to structure much recent writing on political obligation, and if correct would rule out the type of project just outlined. Four such assumptions are as follows:

1. *The burden of proof*: The task of the theorist of political obligation is to refute the anarchist, who, by contrast, has no similar burden to make out in order to establish the anarchist case.
2. *Singularity in Ground*: To refute the anarchist, one appeals to a single argument or principle of justification. Thus each one of every citizen's political obligations is justified in the same way.
3. *Universality*: To refute the anarchist it is necessary to show that there are universal political obligations, in the sense that all who reside within the state's borders must be shown to have political obligations.
4. *Uniformity*: All citizens have the same type or level of political obligations.

The relation between singularity in ground and uniformity bears some comment. The two are distinct. Singularity is a doctrine about the source of our political obligations; uniformity about their content. Singularity

does not entail uniformity: on some utilitarian views, for example, there is only one ground of political obligation, but obligations can vary from person to person. Uniformity does not presuppose singularity: different individuals can have matching obligations but for different reasons, both intra-personally and inter-personally. (That is, A and B could have exactly matching obligations — and hence obey uniformity — but A's are justified by two different arguments *x* and *y*, while all of B's obligations are justified by a third, *z*, thus violating singularity two different ways.)

Perhaps all four assumptions seem innocuous, although, of course, as soon as any assumption is stated it becomes an object of suspicion. Together these assumptions have the effect of forcing the theorist of political obligation to adopt a greatly over-simplified, and implausible, view. In the next section I will take these assumptions in turn, and explore the consequences of their rejection.

3. *Rejecting the Assumptions*

3.1 *The Burden of Proof*

Considering the first assumption — that the task of the theorist of political obligation is to refute the anarchist — takes us deep into the methodology of political philosophy. Something like this assumption receives classic statement in *Anarchy, State, and Utopia*: 'The fundamental question of political philosophy, one that precedes questions about how the state should be organized, is whether there should be any state at all. Why not have anarchy?' (Nozick 1974, 4).

This assumption underlies the methodology of those who have been termed 'critical philosophical anarchists' (Gans 1992). The strategy of such writers is to show the weakness of particular arguments in defence of political obligations, and then conclude that, as no such argument succeeds, we should accept philosophical anarchism. Typically philosophical anarchism is thought not to be in need of further support — it is the defender of political obligations who has to meet the burden of proof.

My claim is that the philosophical anarchist has no right to make this move. The defender of political obligations is being set a task that the philosophical anarchist refuses — the task of providing conclusive posi-

tive arguments for the view, perhaps even a 'knock-down' deductive argument from unquestioned premisses. But it is unrealistic to suppose that any position in moral or political philosophy could meet such a burden.

It might be said in reply that this accusation is unfair. The philosophical anarchist does provide a positive argument, based on the presumption of natural liberty. Human beings are naturally free, equal and independent, not naturally under the subordination of any other person. Thus there is a presumption against the state and it is up to the defender of the state to show how this is to be overcome. But how should we understand this presumption of liberty? Virtually no serious thinker has been prepared to allow that human beings have no moral obligations. Now does the existence of such obligations conflict with the presumption of liberty? Here we face a dilemma. If there is a conflict, and morality is preferred to liberty, then it appears that the presumption of liberty is not as strong as the argument pretends. If there is no conflict — if liberty is freedom to act within the moral law — then how can we be so sure that liberty conflicts with the existence of the state? In either case we need first to establish whether the state is morally justifiable, and some argument other than one based on the presumption of liberty is necessary to settle that question. This is not to say that we should reject the presumption of liberty. The point is that the presumption of liberty is a far weaker ground for anarchism than is often assumed.

Instead, then, of granting the philosophical anarchist the benefit of the burden of proof, I suggest that we should seek a neutral standpoint — a standpoint from which neither the state, nor anarchism, receives a privileged position. I have argued elsewhere that Rawls's hypothetical contract can be understood as providing such a standpoint, but I will not repeat the arguments here (Wolff, 1996a). Here the point is that the theorist of political obligation should accept that there are various possible answers to the question of the extent, type and level of political obligations individuals have, and one possible answer is that no individual has any. At the outset, however, there is no more reason for adopting that view than any other. The task is to show which of the various known options is the best. It is unreasonable to think that any answer must be defended to the standard, say, of mathematical rigour.

Rejecting this assumption changes our approach to the problem of political obligation, but it need have no implications for the main topic

of the essay: the possibility of a pluralistic theory. Hence I will say no more about it here.³

3.2 *Singularity in Ground*

'Singularity in ground' is the name A. J. Simmons gives to the second assumption mentioned above, which, as a prelude to rejecting it, he states as 'the requirement that there be one and only one ground of political obligation' (Simmons 1979, 35).

What could be the motivation for such a view? If there is only one valid ground of moral obligation then singularity would trivially follow. But for those who deny such moral monism, why else adopt singularity? One weak motivation would be some aspiration of theoretical simplicity. Another is not so much simplicity but economy of effort: the thought that the theorist of political obligation needs seek only a sufficient condition for universal political obligations — it may be that there is more than one such condition, but one alone is enough. Singularity in ground is sometimes implicitly rejected when it is realised that no single argument can meet this task.

Finally, though, and most seriously, the idea that there could be more than one ground of political obligation creates the possibility that different grounds could generate conflicts of obligation. If one theory instructs us that we have a certain obligation, while another entails that we do not (or worse, that we have an obligation to do something which

³ Attracta Ingram has pointed out that if we reject the assumption of the burden of proof it becomes more difficult to characterise the distinction between reasonable and reciprocal theories. The reason for this is that the difference, as stated here, turns on comparing the post-distribution arrangement with the pre-distribution arrangement, to see if anyone has made a net loss. But what is the pre-distribution point in the case of the state? The anarchic state-of-nature! Hence drawing the distinction between reciprocal and reasonable theories gives a privileged status to the state-of-nature, but the rejection of the burden of proof is the denial of such a privilege. Whether this amounts to a formal inconsistency depends on one's reasons for rejecting the assumption on the burden of proof. If one's reason for rejecting it is that state-of-nature theory makes no sense, then, at the very least, a reformulation of the distinction between reasonable and reciprocal theories is called for. My reason, though, is that the assumption is theoretically poorly motivated; hence, all I need to say in reply is that the state-of-nature is given privileged status for one purpose, but not for another.

conflicts) which do we follow? It will be said that to avoid the possibility of such conflicts — or perhaps to resolve them — we need to assume singularity at some level.

This is a serious issue for a non-singular theory. Yet it remains to be seen whether the different grounds appealed to in any given pluralistic theory do generate conflicts, and if so, whether there is any difficulty in resolving them. We will return to this later.

In the meantime we should note that singularity is explicitly rejected by George Klosko (1992, 4), who believes that, as no single argument can ground all of our political obligations, several different arguments are required. Implicit rejections for ‘patchwork’ reasons possibly go back as far as Hobbes, but certainly to Locke, who offers at least two grounds for political obligation: express consent and tacit consent (Locke 1988). This is also the implication of Nozick’s two-stage justification of the state, in which one argument provides the justification for the ultra-minimal state, and a second moves us to the minimal state (Nozick 1974, for discussion see Wolff, 1991, Ch. 3).

Singularity is also rejected by clear implication by Chaim Gans who offers four separate lines of defence of political obligations. (1992, 43) Gans is interesting in apparently providing two separate rationales for rejecting singularity in ground. One is that he seems to take the over-determination line: there are several different forms of valid moral argument, he believes, and political obligations can be defended in various different ways. The other thought is that arguments can be used in a mutually supportive fashion: an argument that is weak on its own can be supported by appealing to other considerations.

The clearer of the two examples Gans gives of mutual support combines a Rawlsian natural duty argument with a communitarian argument. Rawls suggests that we have a natural duty to comply with those just institutions which ‘apply to us’. Sceptics have questioned what makes an institution apply to us, and Gans appeals to communitarian arguments to provide an answer. I offer no comment here on the substance of this view; the point of introducing it is to show how pluralistic views become possible.

Rejecting singularity of ground, then, already gives us four different models of pluralistic approaches of political obligations:

Model 1: Complementary arguments.

Different traditional arguments are used in mutual support, as if they are premisses in a more complex single argument, as in the example of Gans' use of Rawls and communitarianism. This is pluralistic only in a narrow or conventional sense. Given the way arguments have been used in the past, it is true that more than one argument is being used. But there is no necessity that the arguments should be considered as two separate arguments brought together, rather than one more complex argument.

Model 2: Overdetermination

There is more than one valid form of moral argumentation, and at least some political obligations can be justified in more than one way.

Model 3: Patchwork of Citizens

This is perhaps the most obvious pluralistic model, involving the rejection of singularity of ground. The basic idea is that for some citizens one argument serves to ground their political obligations, and for others a different argument serves this purpose. For example, in Locke's theory some people's obligations are justified by express consent, others by tacit consent.

Model 4: Patchwork of Laws

Here some of each individual's obligations to obey are justified by one pattern of argument, others of that individual's obligations by other arguments.

3.3 *Universality*

Simmons states this assumption in the following terms, 'if we cannot give an account of political obligation which shows that everyone e.g. in a particular state is bound, then we cannot give an account of political obligation which applies to anyone in this state'. Again Simmons explicitly rejects this assumption (Simmons, 35) An importantly different variant of this assumption is the claim that, although it is possible to show that only part of the population has political obligations, one's project has collapsed unless it can be shown that all are obligated. By implication both assumptions are rejected by Klosko, who writes: 'an acceptable theory must be able to establish the political obligations of *all or most*

members of society.’ (my emphasis) (Klosko, 3) Elsewhere I have argued that it may be an advantage of certain theories that they leave certain individuals without political obligations (Wolff, 1995). But in any case it seems we should reject the assumption, certainly in the form rejected by Simmons, and arguably in the weaker form too. At least, we might accept Klosko’s position here — we have succeeded in the project if we can show that *most* people have political obligations — although we should be clear that in doing so, we are rejecting the problem of political obligation as it has traditionally been conceived.

This does not, in itself, generate any new models of pluralism, but it allows us to introduce one further modification to the patchwork of citizens model. It may be that, even with a division of labour, we cannot show that everyone has political obligations. In fact, each of the models so far can be modified in a similar way.

3.4 *Uniformity*

Strictly, all of the pluralistic models so far considered are consistent with uniformity: that the content of each citizen’s political obligations is the same. But uniformity most clearly comes into question with reciprocity theories: if burdens follow from benefits, differential benefits should yield differential burdens. Hence there is no reason, on such a theory, to expect uniform obligations. Yet although it is not obvious that uniformity has any fundamental philosophical justification, its political advantages seem undeniable. How can a government expect to cope with the possibility that its citizens have different levels of political obligations? We might even think of this as some sort of second level philosophical justification. Even non-utilitarians ought to be sensitive to the consequences of trying to apply their theories. Pragmatism might be a sufficient justification for the simplifications consistent application requires.

This need not be decisive, however, for two reasons. First the difficulties of non-uniformity can be exaggerated. Political obligations might match over a wide range of cases, and differ in circumstances only where governments can make the relevant discriminations. Thus on one interpretation Locke thought that only express consent can make one a full member of one’s political society, and tacit consent generates a lower level of duties. Most notably, those who tacitly consent can escape the government’s jurisdiction by emigration, but full members cannot. But this

example of non-uniformity will give rise to few political problems. This is not to say that we cannot also think of more troublesome possibilities, but the point is that non-uniformity is not always a practical nightmare.

Second, it is open to certain theorists to eschew consequentialist reasoning of this nature. This could be — though need not — because they assume singularity of ground, or because they want to insist on a sharp distinction between moral and pragmatic reasons.

The point to make, I think, is that uniformity should not be assumed for its own sake. It may turn out — although I think not — that the best theory will respect uniformity, but I see no good reason to set out in advance that uniformity is a condition of adequacy on any account of political obligation. Denying uniformity, of course, generates another pluralistic model:

Model 5: Diversity.

Different individuals can have political obligations with different content. We will briefly take up the issue of how governments might respond to this towards the end of this paper.

4. *Singularity Revisited*

Clearly, if we are to consider the possibility of advancing a pluralistic model of some kind, a great deal will turn on the question of singularity. But singularity might seem easy to reject. The assumption that all our political obligations should be justified by the same argument might seem obviously false. After all, why should the argument which generates an obligation to obey the law also generate an obligation to be a good citizen? The nature of these obligations is so distinct as to suggest that their justifications might also be distinct.

However, this reply does not exclude the possibility that if we restrict our enquiry to what might be called ‘narrow’ political obligation — the obligation to obey the law — singularity reigns. One argument explains why we have a duty to obey all the laws that we ought to obey. Should we accept this?

One possible reason for questioning it comes from the difficulty of accounting for the obligation to obey all laws on any single argument. To see this, first we should remember the earlier classification of theories of

political obligation; those that appeal to mutual self-interest; those that appeal to reciprocity; and those that appeal to justice. It seems implausible that all laws can be justified by any one of these approaches. For consider the diversity of roles undertaken by governments. Even though contemporary politics encourages us to view our government as an undifferentiated whole, this is a mistake. Perhaps the most useful insight of libertarianism is that different branches of government have different fundamental justifications — for the libertarian, of course, some branches of government have no justification whatsoever, although I do not propose that we take this further step. We can, I think, isolate at least four types of activities typically undertaken by governments:

- (i) To protect citizens from each other, and from external threat.
- (ii) To supply public goods for the benefit of all.
- (iii) To supply public goods for the benefit of some only (e.g. sponsoring higher education).
- (iv) To redistribute income and wealth.

These distinctions are not hard and fast: (i) might be a sub-category of (ii), and it may be difficult, in some cases, to decide into which category to place a certain governmental measure. But the point is that we should not assume that one argument will justify the state in carrying out all these forms of behaviour. Indeed, once these branches are distinguished, it seems highly unlikely that any single argument will succeed in doing this. Consequently — so the argument runs — the grounds of any individual's obligations in respect of different parts of the law may differ. Therefore we should reject the assumption of singularity. It has been implicitly rejected by others (cf Klosko) but not as self-consciously as it should have been.

In response it might be said that the argument just given runs together two distinct issues:

- (a) The justification of certain forms of state activity.
- (b) Our obligation to obey particular laws.

The argument goes through only if the plurality of justifications for different branches of the state's activity entails a plurality of reasons to obey the state. And, it will be added, there is no reason to think that such an entailment holds. Even though different laws have different justifications, it could be said that nevertheless the moral reason to obey remains the same in every case.

How can we adjudicate this dispute? Before going further we should

recognise, that while denying singularity on this basis gives further reasons to accept the patchwork of laws model, retaining singularity nevertheless generates yet another pluralistic model:

Model 6: Law and Its Content

One argument tells us why we should obey the law, another, or several others, tell us which laws we should have. On this view there is only one reason why we should obey the law, but there are perhaps many different reasons for having the laws we do.

We should also note that several of the earlier models generated by rejecting singularity, universality and uniformity can be combined:

Model 7: Multiple Plurality

1. An obligation to obey a particular law may have more than one ground or justification.
2. The obligation to obey different laws may have different grounds.
3. Certain grounds of obligation may apply only to a subset of citizens.

A picture of great complexity now becomes a conceptual possibility. Imagine there are three political obligations (corresponding to different branches of government) A, B, and C. Imagine that A can only be justified by ground *a*, and B by ground *b*, but two further grounds each separately justify C, *c1* and *c2*. Suppose that these grounds are atomistic, in the sense that it is possible for an individual to fall under any possible combination of these grounds. It then becomes possible now to conceive of many logically possible different classes of individuals. Full citizens have all three obligations, on all four grounds. Non-citizens have no obligations, obviously on no grounds. In between the two cases there are another 14 logically possible classes of citizen, each who lack one, two or three grounds of obligation, but two of these classes nevertheless have a full set of political obligations. The pressing question is whether real life is more complex or more simple than this abstract model. Is this

model *too* pluralistic? Or pluralistic in the wrong way?⁴

I do not know how to argue that it is the correct model, but it does seem to me worth taking very seriously. I will end simply by sketching how the model can combine with the three types of theory of justification (rational, reciprocal, and reasonable) to generate an account which, while complex, nevertheless seems reasonably plausible.

5. *The Multiple Plurality Model*

Given what I have said about the various possible types of theory of political obligation, and the different roles and justifications of state action, there is an obvious and elegant way of fitting the pieces together. The suggestion will require substantial modification, but I will give it first in its rough, unqualified form.

First we said, there are branches of government that supply means of protection for citizens, from each other and from external threat: the police, the law courts and the army. These, it appears, can be justified on grounds of mutual self-interest (rational justification) and this justification also grounds our obligation to obey such laws.

Second there are branches of government supplying public goods (clean water, safe environment) for universal consumption. These — and the corresponding obligations to obey — are justified by a principle of fairness (a form of reciprocal justification). Obedience here is generally a matter of paying taxes, although other action, such as complying with water-saving regulations, is sometimes required.

Thirdly there are branches of government supplying public goods for the use of part only of the population (higher education, sponsorship of the arts). These are difficult cases. If those who benefit are generally the disadvantaged, this can be subsumed under the fourth category: redistributive justice. If — indirectly — there is a benefit for all, as is often claimed in the case of higher education, then there is a case for sub-

⁴ It is also possible that it is not pluralistic enough! Consider Model 8: Radical Plurality, which combines Multiple Plurality with Law and Its Content. This adds the further point that although there may be multiple justifications for our laws, and multiple justifications for our reasons to obey, there is no neat mapping between the reasons to obey and the justification of the laws.

sumption under the second category. If in a particular case neither argument works — and public subsidy of the most expensive opera tickets is an obvious example — then either the framework set out so far is incomplete or the measure has no fundamental justification and there is no obligation to obey. The practical consequences of this remain to be explored.

Finally certain measures are justified by justice (reasonable justification) and justice also grounds the obligation to obey measures reasonably deemed appropriate to bring us closer to a just world.

Now for the qualifications. Obviously all of these remarks need detailed elaboration. Naturally a theory which helps itself to elements from many different theories must be able to show how it responds to the standard lines of objection to the theories it uses. Here, though, I can only be brief.

Returning to the first stage of argument, it was said that the obligation to obey certain laws can be based on self-interest. Now I have said that a rational theory of justification includes as a necessary condition that each person's self-interest is advanced by the arrangement under consideration. There are various ways in which this can be further elaborated, yielding different theories, for there are many different ways in which everyone's self-interest can be advanced: it could be equally advanced, maximised, left to a bargaining process, and so on. But all of these possibilities appear to suffer from a weakness. That a measure is in my interest might give me some reason not to object to it, but it does not generate a moral obligation to obey. This observation gives us a choice. Either we can accept that not all political obligations are moral obligations, but that some correspond to what we might call indirect prudence⁵ (perhaps Hume's view) or that the argument given so far is incomplete.

In fact, until we bring in fairness and justice arguments I do not see how we can go much further than prudential considerations. Even if we take the further step of arguing that because a measure is in someone's interests we can infer that in some unexpressed way they consent, the sense of such consent is surely so weak as to carry very little, if any, justificatory force. Consequently a prudential justification may be all we

⁵ By 'indirect' prudence I mean that I recognise that the existence of certain laws is in my interests. This is distinct from the shallow direct prudential argument that if I do not obey I am likely to be punished.

can muster at this stage.⁶

This, however, opens up a second line of criticism. If my reasons for obeying are merely prudential, and there are cases where my interests would be bettered by disobedience (and I know this) then I have no reason to obey. In other words, it would be better for me to free-ride.

This objection surely depends on how any given individual's interest is going to be taken into account by the particular rational theory under consideration. However, if we think of this argument as providing only a prudential reason, then we seem to have little choice but to allow each individual to pursue their self-interest by whatever means can be expected best to achieve it. For many people free-riding will be the answer, and so that is what is recommended and permitted by the theory.

One obvious response to this would be to appeal to fairness considerations, but I want to remain within rational self-interest theory for this part of the argument. Is this prudential argument vulnerable to a defeating level of free-riding?

This, of course, is a common complaint. But I feel it is exaggerated. If it is mutually advantageous to have certain laws, but these laws are vulnerable to free-riding, then it is surely even more to our advantage to have laws that are as resistant to free-riding as we can sensibly afford. Few, if any, laws could be made proof against free-riding. But many can be made resistant to run-of-the-mill (as distinct from expert) free-riding, and so this is what the rational argument requires.

Here, then, a third objection is appropriate. The last argument tacitly concedes that expert free-riders have no prudential reason to obey those laws which are mutually advantageous to the rest of us. Thus we cannot guarantee universal political obligations on the basis of any argument from self-interest.

In response, all I can do is agree with this objection, but note that it has force only if we assume universality: that the theorist of political obligation must demonstrate that every last individual has political obligations. But I have denied universality, and so this objection is not devastating. I admit, though, it is rather unsettling to derive the result that expert free-riders avoid political obligations. Fortunately we are not finished yet.

⁶ Here I modify some remarks made in Wolff 1990/91

The second branch of government action concerns the supply of public goods. This calls out for some form of reciprocal justification, of which, I think, fairness theory is by far the most promising. I accept, broadly, the following view of fairness: if you benefit from other people's efforts to provide genuinely public goods, then you owe a duty of fairness to do your part; a duty to those who have undertaken costs (provided the scheme as a whole is reasonably just). You benefit, in the relevant sense, if all things considered, you would prefer the scheme and the costs to no scheme and no costs. It is not assumed that we should take people's reports of their preferences as a reliable guide. Rather, at least in the case of the most widely accepted goods, given the difficulties of proof the onus is on the rejecter of the benefits to make out the case, difficult though this may be in many cases (see Wolff 1995).

The logic of the fairness argument demands that net receipt of benefits is a necessary condition of acquiring burdens. It does not follow that burdens should be proportioned to benefits, although as we noted above such a view would seem to be in the spirit of fairness theory, where those that benefit most are required to pay most. But whatever we think of that, those who do not benefit at all will escape burdens.

Note that expert free-riders, left out of the scope of the last argument, do not escape this one. For I assume that free-riders do benefit in the sense I explained; they simply manage to figure out a way of avoiding the costs.

Those who escape political obligations according to the fairness argument are those who do not derive a net benefit from the public goods provided by the state. These are people living on the margins: gypsies, travellers, and those trying to preserve traditional ways of life, who do their best to avoid receiving the benefits that the state has to offer (thus attempting to meet the burden of proof of showing that they would rather have no benefits and no costs).

Note that such people will also avoid the pragmatic obligation of the first argument, for that also depends on the idea of people deriving a benefit from the state. At this point it might be said that the only practical difference between the rational and reciprocal argument is that the second is more inclusive than the former, in that it generates political obligations in every case that the former does, and in others too. As it also provides a moral, rather than prudential, reason to obey, it might be thought that the first argument is wholly redundant.

Now it may be that the rational argument has some advantages over the reciprocal. But even if it does not, this is not a sufficient reason to reject it. For allowing the possibility of over-determination means that there is no reason to object to the possibility that the same obligations can be justified by more than one argument.

This brings me to the third category of government action: the provision of public goods for the use of part only of society. Here I claimed that, if such activity is justified, it can be assimilated to either the second category (fairness) or the fourth (justice). So we need now to turn to the justice argument.

Here I can only be brief and dogmatic. I assume that all individuals have certain duties of justice to provide assistance to other individuals who meet certain conditions. There can, of course, be enormous disagreement about the nature of those duties, and conditions others have to meet to be entitled to our help, but for present purposes I need not say any more about this. All I need is the bare assumption that we do have duties of justice to assist others. A second assumption is that such duties cannot reliably be exercised without the state to gather information and coordinate responses to it. A third is that these duties can rightfully be enforced by others. The state then appears to be the appropriate enforcement agency, from which it follows that the state has the right to enforce all of us to obey our duties of justice. In essence, again, this is a matter for redistributive taxation.

Note that one is, in principle, subject to such a duty whether or not one benefits from the existence of such arrangements: it can be reasonable to demand sacrifices from one person for the sake of another. Those very well off purely as a result of good fortune can reasonably be required to give something for the sake of those starving through no fault of their own. Thus no one escapes liability to redistributive taxation. In fact, though, many people will not be taxed for redistributive purposes: if they are very poor, they will be net gainers from the scheme, or, for those in the middle, they will neither gain nor lose. Nevertheless even those who have no political obligations under the first two arguments will have them under this. Thus independence is a relative matter.

At this point the problem of conflict of obligations can be addressed. The potential difficulty was that, if we allow several grounds of obligation, we may yield conflicting duties. So, for example, how can we think of the state as *both* subject to rational justification and to reasonable

justification? After all, the former says that it is a necessary condition of the legitimacy of an arrangement that it furthers everyone's self-interest, but the latter denies this. Redistributive policies conflict with rational justification.

However, I think we can avoid this difficulty in the present case if we think of the accounts of justification as each providing a sufficient condition for the legitimacy of government action, not a necessary condition.⁷ It is true that rational justification does not licence redistribution. But this, on the present view, does not make it illegitimate, for the reasonable argument can provide a sufficient justification. Thus the most stringent obligation overrules any less stringent which conflicts. There will be a difficulty only where, of two conflicting obligations, we cannot say that one is more stringent than the other. In such a case the problem can only be resolved on pragmatic or conventional grounds. But much more detailed treatment is necessary to see if any such case occurs.

Finally, let me sum up this account. The largest group of citizens will have political obligations generated in three different ways: from self-interest, from fairness and from justice. Self-interest and fairness may often determine the same duties; justice will typically determine a different set, although there is some possibility of overlap. Other citizens lack some grounds of obligation. For some self-interest does not give a prudential reason to obey, and some of these people, those who do not derive a net benefit from the arrangements, will also have no duties of fairness. But all, even the semi-independents, have duties of justice. For some (rich gypsies, perhaps) these are the only duties they have. For other semi-independents — the relatively poor among them — although they have such duties in principle, in practice they will not be called on to act, or pay taxes.

How should governments respond to this variability in political obligations? This is a very good question. Clearly governments have to make cruder distinctions than political philosophers. Often they can be excused for acting as if certain individuals or groups have political obligations, when, strictly speaking they lack them. Furthermore, the ar-

⁷ This is not in tension with the point just repeated that it is a necessary condition of a scheme being rationally justified that it advances everyone's self-interest. The logic of the position is that while A (advancing self-interest) is a necessary condition for B (rational justification), B is a sufficient, but not necessary, condition for C (legitimacy).

guments given here do not entail that it is right for an individual to break a law when there is no obligation to obey it. For there may be an argument operating at another level suggesting that as breaking a law is likely to have negative consequences, there is always a prima facie obligation to obey even when there is no independent moral ground. Does admitting such a thing undercuts the rest of the argument of this paper? Not at all. The negative consequences of disobedience could hardly give us a reason for having laws in the first place. We must also assume that the law is in place, and broadly justified, before we can make such appeal.

Finally, to conclude. In this paper I have tried to do two things. First I wanted to explain how pluralistic models of political obligation are possible, and to give some sense of the options we have. Second, I wanted to give an outline of my favoured sketch. I am aware that other people may think that in addressing the problem of political obligation we need have no recourse to such models. But even if this is so, it is surely worth examining the assumptions underlying much of our theorising, and exploring the conceptual possibilities that open up if we deny them.⁸

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