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TWO CONCEPTIONS OF POLITICAL OBLIGATION

BY

LIAN CHENG

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APPROVED, THESIS COMMITTEE

G. Sher, Chair
Herbert S. Autrey Professor of philosophy

B. Brody
Professor of Philosophy

A. Grob
Professor of English

Houston, Texas
June, 1998
Abstract

Two Conceptions of Political Obligation

By

Lian Cheng

This thesis addresses one of the central questions in political philosophy, the question of political obligation why people have a duty to support the political institutions of their countries. The traditional and dominant answer to this question is voluntarism, which claims that people have such a duty because they have consented to the ruling of their states. The thesis systematically refutes this voluntarist approach, criticizes some of today's leading non-voluntarist alternatives to the voluntarist one, and advances a new way of looking at the problem, which is derived from a transcendental argument.
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Lian Cheng
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Chapter 1 Introduction

Most people believe that they have an obligation to support and maintain the political institutions of their countries. This obligation is the so-called "political obligation". A philosophical account of political obligation consists in an inquiry into its moral ground.

Being unsatisfactory with several leading theories of political obligation in contemporary literature, I aim to advance an alternative with a new approach to the problem. Among the theories I will examine, I distinguish two kinds of approach, voluntarist and non-voluntarist. Voluntarism is the dominant doctrine in contemporary liberal thoughts. Voluntarists hold that all human obligations must be self-assumed through voluntary undertakings like promises, consent, contracts, etc. The voluntarist conception of political obligation implies that political obligation must be the result of such voluntary undertakings: citizens have an obligation to support their political society if they have promised to do so, or have consented to the ruling of their government, and so on. Therefore, a voluntarist account consists in finding the obligation-generating voluntary acts in a political society. However, in any state
most citizens have rarely performed such acts. Then, rather than justifying the notion of political obligation, the voluntarist approach produces something opposite, a kind of skepticism about the existence of political obligation.

One of the main shortcomings of the voluntarist approach is that it fails to demonstrate that political obligation is "general" in the sense that it applies to all or most members of a political society. To avoid this kind of failing, some theorists develop theories of political obligation in which the scope of voluntarism is limited. Here comes another kind of approach to the problem of political obligation, which I call "non-voluntarist". Three accounts it inspires and their updated versions will be considered in this thesis. They are the gratitude account, the natural duty account, and the fair play account. A common feature of them is that they ground political obligation in general moral principles, which bind members to support their society. Proponents of the gratitude account claim that by receiving benefits from the social and political arrangements of the society, members owe the society a duty of gratitude to support its institutions. Because nearly all citizens have received benefits from the state, such a duty of gratitude will be general. The natural duty account treats political obligation as being rooted in
a natural duty of justice. Because everyone has a natural
duty to promote what is just, all citizens will be bound by
this duty to support and maintain their political
institutions if they are just. The fair play account is by
far the most sophisticated one in contemporary theories. Its
main idea is that political obligation is generated by the
principle of fair play. One of its crucial assumptions is
that political society is basically a mutually beneficial
cooperative scheme, which is maintained by most members
through their sacrifice and efforts. One owes an obligation
of fair play to contribute to the scheme if one has accepted
benefits from it.

Although each of these non-voluntarist accounts has
made some improvements over the voluntarist one, they are
nonetheless confronted with other difficulties. Detailed
discussions of the strength and weakness of these accounts
will be presented in chapters to follow. Here I would like
to highlight some difficulties with them. For example, both
the gratitude account and the fair play account treat
receipt of benefits as a source of political obligation. The
question is whether unsolicited benefits could place
recipients under the obligation under discussion. If only
voluntary acceptance of benefits could obligate, what is the
sense in which citizens have voluntarily accepted benefits
from the political society into which they were born? For
the natural duty account, there is a problem of
particularity. Political obligation is supposed to be an
obligation one owes to one’s country, rather than to any
other countries. The natural duty, while it is a universal
duty that applies to all human beings, does not explain why
a citizen is particularly tied to her own society. Though in
recent years theorists have advanced new versions of these
non-voluntarist accounts, my arguments show that all of them
are not sufficient to explain the nature of political
obligation.

My own account starts with a reconsideration of the
conceptual or analytical solution to the problem of
political obligation. Some theorists claim that there is a
conceptual or analytical link between membership and
obligations. That is to say, having political obligations is
part of what it means to be a citizen of a state. On this
account, if one is to question “why should I obey the
government of my state?”, it must be that this person does
not understand the meanings of “citizen”, “government”, and
“state”. While this position seems to provide a positive
justification of the existence of political obligation, it
indeed denies that there is any need to provide an account
of political obligation.
Though I agree that membership involves obligations, I think that we do need to explain what such involvement involves. For we can still meaningfully ask what makes us members of a political society and why we should keep our status as citizens. At any rate, we are not obligated to do things by just understanding the meanings of some words.

Therefore, my task is to construct an argument to establish a link from whom we are to what we should do. Such an argument appears as a transcendental argument. My argument changes the focus of the problem of political obligation. Rather than directly answering the question "what generates political obligations?" I turn to ask, "What makes most members of a political society think that they do have political obligations?" The general structure of the argument is as follows. First, there is a transcendental premise that our political society will not be possible if we don't think we have political obligations. Second, there is an interpretive premise that our political society exists. And third, the conclusion is that we do think we have political obligations. The simple structure of the argument does not mean that the argument itself is simple. It includes complex interpretations of each of the two premises. I will say a little bit more about what is going on in this transcendental argument when I introduce the
related chapter.

The substantive content of this thesis will be distributed to five chapters. Chapters 2 and 3 discuss and criticize the voluntarist approach. Chapter 4 is a critical examination of the gratitude account and the natural duty account. Chapter 5 is about the fair play account. Chapter 6 will present my positive account of political obligation.

In chapter 2, my single end is to prove that the clear sign of consent, which is required by voluntarists for generating political obligations, can hardly be found in most citizens' personal history. Classical and contemporary candidates for such a sign are original contract, hypothetical contract, personal promises, continued residence, political participation, and hypothetical consent. I argue that hypothetical contract and consent are not real voluntary undertakings and hence cannot pose obligations on individuals. It is also hard to regard continued residence and political participation as obligation-generating acts. Furthermore, in any political society, there are only very few people who have ever expressly consented to the government. The conclusion is that if the voluntarist approach were right, most citizens would not have political obligations.

Chapter 3 will explore the limits of the voluntarist
approach. Its underlying moral principle, the voluntarist principle, will be criticized from two angles. First, the voluntarist principle is superficial because the best defense of this principle must presuppose some duties that are independent of any voluntary undertakings. For example, the duty to keep promises cannot be a self-assumed duty. Second, the voluntarist principle is narrow because it is unable to capture many human obligations, like those to family members, to friends, to the future generations. These defects inherent in voluntarism cause several misunderstandings of the political society, the political individuals and the relationships between them.

I switch to discuss non-voluntarist theories in chapter 4, which is titled "Special Ties". Political obligation ties people to particular political societies. Any theory should take this feature into account. The first part of this chapter examines the gratitude account, and the second part the natural duty account. I put them together because both of them suffer from similar problems, that is, neither of them could show that political obligation is a special obligation.

Two versions of the fair play account are examined in chapter 5. The original contributions Hart and Rawls made to this theory have received powerful attack from voluntarists.
Theorists like Nozick and Simmons doubt that the principle of fair play can bind those who passively receive benefits to contribute to the social scheme. Later in his *A Theory of Justice*, Rawls retreats from his early view, because he thinks the principle of fairness only binds people who have voluntarily accepted advantages from the social and political arrangements, and there is no proper sense in which they have ever done this in a society into which they were born. Klosko and Arneson try to defend the fair play account against the voluntarist attack by arguing that the principle of fair play could generate obligations on recipients of benefits if these benefits are worth their efforts, presumptively beneficial, and distributed fairly. My analyses in this chapter suggest that their defense of the fair play account is unsuccessful. The point is that the principle of fair play must also derive its binding force from an assumption that the exchange between benefits and burdens must be reasonable for each individual. That is, one factor that obligates individuals to cooperate is that they will gain more than they lose if they cooperate. But this can hardly be true even in Klosko and Arneson's favorite case of national defense. It is not generally true that the value of natural security definitely outweighs the risk of life in defense. Citizens risk their lives to defend the
country not because they believe that their lives would be more dangerous if national defense were not provided, but because they believe that their country and society must persist and that by defending their country they are defending each other and their common life. Therefore, we have to find an alternative to the fair play account.

The relatively lengthy chapter 6 is mainly occupied by a transcendental argument for the conceptual view that membership in political society entails political obligations. I first outline a general form of the transcendental argument about membership obligations. Then I introduce a defense of familial obligations as an easy entrance to the difficult topic of political obligation. We cannot choose which family to be born in. If familial obligations exist, it does not seem possible to account for them in voluntarist terms. A transcendental argument for familial obligations goes like this. (1), our family life will not be possible if we don’t think we have obligations to each other as family members; (2), we do have the family life; (3), therefore, we do have familial obligations. For premise (1), I argue that the mere caring behavior between family members is not sufficient to characterize the real family life. The second premise is interpretive. That is, (2) is not merely a neutral fact for family members, but
also a normatively positive fact. Without the normatively positive feature of the existence of human institutions, we could even construct arguments for gang obligations. Because people generally don't think of the existence of gangs as normatively positive, even voluntary membership in a gang does not imply a moral obligation toward it. If we put the argument for familial obligations in a subjective form, it is as follows: because a family member thinks that his obligations are necessary for the existence of his family, and further he thinks that the existence of his family is a good thing, he will infer that he has obligations in question.

A parallel argument, I believe, applies to the political case. The crucial step is to find sources to interpret the existence of the political society as normatively positive for its members. These sources are ample, given the historical as well as the current features of a political society. I list six of them: individuals' self-identification with their political society and its tradition and culture; the relevance of individual well-being to that of other members and to the collective achievements of the society; membership as mutual recognition and as a transcendental good; the sense of community; and the full sense of membership. Later I remark
that these features are nearly universal in all existing political societies, though no societies hold them all ideally and perfectly.

In the concluding chapter, I briefly review the relation between my approach and those I have been criticizing. I interpret citizens' positive assessment of the existence of their political society as a kind of consent, which is not based on datable performative acts. The fact that this kind of positive attitude toward the political society generally obtains in the minds of most members of a political society proves that my account is much more realistic and plausible than its rivals are. I believe that my account will hold well until drastic changes happen in current human conditions, in the way of our living, and in our self-conception. I don't have a metaphysical guarantee that these changes will never happen, and I don't think I need it in favor of my position.
Chapter 2 The Sign of Consent

1

An account of political obligation is supposed to explain and justify the belief that most citizens have an obligation to support their political society. Such an obligation is in general thought to be a kind of moral obligation. Accounting for this particular moral obligation is an inquiry into its origin and its ground.

The most influential (and perhaps the dominant) doctrine with respect to this subject matter in the history of political philosophy is political voluntarism. Political voluntarism flourished with the great tradition of social contract in the seventeenth century, and has been standing in the central place in modern political philosophy. Political voluntarism refers to a view that political legitimacy, political authority, and political obligation are all derived from the consent of those governed who create a government or political community. This view results directly from a more general principle of the self-assumption of obligations: obligations must be assumed voluntarily by those who are to have them. Underlying political voluntarism, there is a moral principle, which I call "the voluntarist principle": no one can be morally
affected by what one does not choose to accept. A classical statement of this principle and its relevance to the political context can be found in Rousseau:

"I owe nothing to those whom I have promised nothing...Civil association is the most voluntary act in the world; since every individual is born free and his own master, no one is able, on any pretext whatsoever, to subject him without his consent."\(^1\)

Other eminent social contract theorists also make the similar claim. Hobbes says,

"The right of all sovereigns is derived originally from the consent of every one of those that are to be governed."\(^2\)

And Locke says,

"Every man, by consenting with others to make one body politick under one government, puts himself under an obligation to every one of that society."\(^3\)

The examination of the plausibility of the voluntarist principle as a moral principle will be deferred to the next chapter. The purpose of this chapter is to answer the following question: Does political voluntarism successfully justify the general notion of political obligation? That is, have voluntarists provided a convincing argument that most citizens acquire obligation to support their political

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\(^3\) Locke, *Two Treatises of Government*, Cambridge University
society through their consent?

Before we proceed to go to the question above, it is instructive to mention an advantage of political voluntarism. It is quite plain that almost all social contract theorists justify the political society through a conception of the state of nature. They admit that human life would be intolerable or would be of little worth in the state of nature. Could this count as a justification of the obligation to support and maintain the political society? The answer seems to voluntarists to be "no" for two reasons. First, the general thesis of the necessity of the political society does not establish the particular relationship of citizens to their political society. Second, we should do something more positive than just saying that political society is justified because of its utility. That is, we should argue that we have a moral duty to support the political society. According to voluntarists, the notion of consent will do well in these two aspects.

With respect to the positive project, the voluntarist approach to the problem of political obligation tries to ground political obligations directly on individual voluntary acts, like contracts, consent, promises, etc. On voluntarism, this act represents the consent of citizens to their state. However, the following discussion will produce

a solid conclusion that is not substantially new to theorists of political obligation, namely, that there are few citizens who have ever performed the various alleged "voluntary" acts. If this conclusion is correct, political voluntarism fails to provide a justification of the general notion of political obligation.

2

The salient voluntarist theory is the consent theory. It is thought by Simmons to have "provided us with a more intuitively appealing account of political obligation than any other tradition in modern political philosophy". What is its appeal? Here let me cite two arguments for it. The first one defends an idea of real consent, that is, that the political society cannot have authority over the individuals until they have given a clear sign of consent to their political society.

"Consent theory respects our belief that the course of a man's life takes should be determined, as much as possible, by his own decisions and actions. Since being born into a political community is neither an act we perform, nor the result of a decision we have made, we feel that this

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should not limit our freedom by automatically binding us to the government of that community. And these convictions serve as the basis of a theory of political obligation which holds that only the voluntary giving of a clear sign that one finds the state acceptable (and is willing to assume political bonds to it) can ever obligate one to support or comply with the commands of that state's government."\(^5\)

Then, according to the passage quoted above, the idea of real consent takes the advantage of its respect for individual freedom.

The second is Rawls's. It expresses an idea that may be called "hypothetical consent".

"[A] society satisfying the principle of justice as fairness comes as close as a society can to being a voluntary scheme, for it meets the principles which free and equal persons would assent to under circumstances that are fair. In this sense its members are autonomous and the obligations they recognize self-imposed."\(^6\)

Rawls's view is that free and equal persons in the original position would recognize their obligations to their political society if it satisfies the principle of justice as fairness. He does not require that persons actually give a clear sign of consent. He further means to say that persons can still enjoy their autonomy even through a kind

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\(^5\) Simmons, 1979, p.69.
\(^6\) Rawls, J., *A Theory of Justice*, Harvard University Press,
of hypothetical would-consent.

Let's start with the idea of real consent. It should be noticed that a voluntarist account of political obligation intends to justify the belief that all or most citizens of a state have a duty to obey its laws. Then political obligations are universal in the sense that they apply to all those who resides within the territory of the state. If the voluntarist can show us that nearly every individual in a state has consented to the state, then it seems that the problem of political obligation can be easily solved. If such a project can be done, voluntarism will succeed in justifying citizens' political bonds to their state.

Succeeding questions voluntarists must answer are: What counts as "the voluntary giving of clear sign"? Has everyone or nearly everyone given such a sign to his state?

Let's first consider the answer that makes use of the notion of social contract. It might be said that the state arose out of a social contract that took place at a particular moment in history. This social contract is a real contract (let's call it a "original contract" following Hume), a real historical event, that marked people's transition from the state of nature to civil society. Through the original contract, people created a government and granted it authority over them. Thus, the voluntary giving of a clear sign of consent lies in the original

contract.

There are at least three objections to the story of the original contract. First, historically speaking, few states have ever come into exist as the product of an original contract, so the idea of original contract is historically problematical.

Second, contract is inherently a matter of promising and keeping promises. Promising and keeping promises are virtues that belong to civilized human beings. Making promises and keeping words involve judgements and decisions that require sophisticated conceptual capacities. As Hanna Arendt points out, "Promises are the uniquely human way of ordering the future, making it predictable and reliable to the extent that this is humanly possible." Based on this observation, the objection to the idea of original contract might go like this. Either savages in the state of nature lack the ability to contract with each other to create a government or the contract would be useless because there was no guarantee that they will submit to it. This objection accuses the social contract theory of a vicious circularity. That is, the moral obligations to submit to a contract only belong to those who are already in an established civil society. Raphael doesn't think that there is any circularity here. He argues that,

"It can assume, as Hobbes does assume, that men in the
state of nature are perfectly capable of making promises and contracts, and therefore of knowing what it is to put oneself under obligation; but because there is no security, without the organization of political society, that men will keep their promises when they can break them with impunity, it is desirable to set up a sovereign authority by means of the special device of social contract."

I fail to see how the Hobbesian notion of the state of nature can save the idea of the original contract. Hobbes defines the state of nature as a state in which no public authority exists, a logical alternative to any kind of civil society. People in a civil society can conceive what would happen to them if all public authorities in their society disappeared. According to his conception of human nature, people in such a state will be constantly in wars of all against all. Reason and reflection will instruct them to be away from this state and to find an alternative to it. Comparing with being in the state of nature, it is desirable to be in the protection of a sovereign by entering into a social contract. However, the Hobbesian state of nature is a hypothetical one. It is an imagined state in which all public powers were absent, not a pre-social state that stood in a particular stage of human history. Of course, it can be real at any time when there is no public authority.

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8 Raphael, D. D., *Problems of Political Philosophy* (second
Therefore, contracts in the Hobbesian state of nature are in effect also hypothetical. To defend the idea of original contract, Raphael needs to add that hypothetical contract also indicates real consent. But this issue needs a separate treatment, and I will turn to this issue in section 4.

Third, even if we admit that there is something like a real contract, what could it prove? Could it prove that most citizens are obligated to obey the laws of the state through their consent to the state?

First of all, the idea of real contract only proves that those who were parties in the contract have acquired obligations to state, but these obligations do not automatically apply to those who didn’t join the contract. For example, in most states, it is neither legally nor morally plausible to allow a contract made by a generation to bind succeeding generations. It is hard for a proponent of the doctrine of the real contract to make a claim that original contract by original contractors would bind their descendents, for it contradicts the core idea of voluntarism. Defenders of the real contract have to find some kind of on-going consent given by successive citizens.

Actually, there seems to be some literal on-going consent. Some people acquire their citizenship through naturalization. The most common process of naturalization includes expressing intentions to join the state and

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pledging to accept the obligations assigned by the state to be joined. By enjoying the privileges of the citizenship, these people assume for themselves obligations to the state in return. Some people have pledged to obey the commands of the state in other cases, like running for or holding offices. These are good examples of on-going real consent. Such contracts happened before, and will happen in the future. The problem is that these cases only cover an extremely small population of a state. They have revealed nothing about the obligations of the vast majority in a state. In most states, most citizens did not make any kind of contracts like these with the state. If we are to seek for real consent from actual contracts with the state, we have to admit that only a very small population of people can be said to have assumed political obligations voluntarily, and the vast majority is left untouched.

If the doctrine of the real contract fails to represent the idea of real consent, can we find other sources to defend it? Can we find some sign of ongoing consent, given by nearly every individual, and thus avoid the difficulties accounting for the generality of political obligation?

Let's reflect on our individual life. Is there any moment in our life at which we knowingly and voluntarily gave consent to our state? It seems clear that state officials have not asked most of us whether we agree to obey
the government. I remember that when I was a schoolboy, I watched the rising of the national flag everyday, sang the national song, pledged "Be loyal to Chairman Mao, to the Communist Party, to the people, and to the nation". Was I giving my consent to my state by these activities? It is hard to say how. First, I was required to take part in them, and there were no other choices. Second, when I did all of these, I was not at the legal age to be responsible for my pledge. They were part of my education, and at that time I even didn't understand the real meaning of my pledge. These activities should not count as the clear sign of voluntary giving of consent to the state.

Promise, contract, pledge and so on are all what Locke calls "express consent". They are surely among the category of the clearest sign of consent. Our discussion has so far suggested that only few citizens have given such consent to their state. The conclusion might be this. If most citizens do have a duty to obey the laws of the state, express consent cannot be the moral ground of such duty. An equivalent conclusion should be that if only express consent could generate political obligations, we have to concede that most citizens don't have them. To get to a more desirable conclusion that most citizens do have political obligations, voluntarists must go on to seek for other sources to show that most citizens have consented.
How about if voluntarism defines the sign of consent not so vividly as express consent like contract, promise, pledge, etc.? Here comes the idea of tacit consent we owe again to Locke. Tacit consent is not given, according to Locke, by explicit oaths like promises in contract, but through some implicit acts. It should be noticed that however implicit these acts may be, they must have the basic elements of what is thought to be voluntary. Both express consent and tacit consent are consent, what distinguishes them from each other is just the way in which the consent is given.

Locke argues that political obligations can be incurred through tacit consent, though he always emphasizes that only express consent renders one to be a member of political society in a complete sense. Here is the essential passage that represents his idea of tacit consent:

"No body doubts but an express consent, of any Man, entering into any Society, makes him a perfect Member of that Society, a subject of that Government. The difficulty is, what ought to be look'd upon as a tacit consent, and how far it binds, i.e. how far any one shall be looked on to have consented, and thereby submitted to any Government, where he has made no Expressions of it at all. And to this I
say, that every Man, that hath any Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his tacit consent, and is as far forth obliged to Obedience to the Laws of that Government, during such Enjoyment, as any one under it; whether this his Possession be of Land, to him and his heirs for ever, or a Loading only for a Week; or whether it be barely travelling freely on the Highway; and in Effect, it reaches as far as the very being of any one with the territories of that Government.9

The central thought of the above quotation is that one gives tacit consent to the government by enjoying its protection and other benefits. This is one of two most popular interpretations of tacit consent among consent theorists, and it is our immediate work to consider whether it works.

We need to distinguish the idea of tacit consent from another claim that mere acceptance of benefits from the state is alone sufficient to put recipients under the obligations to obey the state in return. The later claim lies in the core of a non-voluntarist account of political obligation, and the discussion of it will be the subject in chapter 4.

The idea of tacit consent depends on a subtle argument that once appeared in Plato's Crito. Socrates claims (in the name of the Laws) that by living in Athens he has implicitly

consented to the laws of the city. Voluntarists only allow consent to create the obligations to obedience. They assume that receiving benefits is a way of tacitly consenting to the state, and therefore, it is the consent that binds the recipients.

Is this a sound argument? It seems that it has plenty of support from our ordinary experience. When you have ordered some food and finished it in a restaurant, you are ready to pay the cost and perhaps tips without saying in advance to the waiter that you consent to pay. It is exactly that by sitting down and enjoying the food you have tacitly consented to pay the fare. In such a context, being free to choose food or free to leave the restaurant without eating is enough to show that you have consented to pay the expense by enjoying the food. Is the same true of citizens receiving benefits from the state? Socrates in *Crito* thinks so. Says he,

"Not one of our laws raises any obstacle or forbid him, if he is not satisfied with us or the city, if one of you wants to go and live in a colony or wants to go anywhere else, and keep his property. We say, however, that whoever of you remains, when he sees how we conduct our trials and manage the city in other ways, has in fact come to an agreement with us to obey our instructions."^{10}

The idea behind this is that residence is an indication
of consent, because there are other choices available for dissent, namely, at least, leaving the state and hence abandoning the whole package of benefits and obligations as shown in above. However, what is true for Socrates may not be true of others. As Hume puts the difficulty,

"Can we seriously say, that a poor peasant or partizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her."\(^ {11}\)

Hume's objection is convincing especially in modern societies. Socrates' Athens city-state is very small and there were some other similar city-states around. If the free immigration between them is available, and leaving a city is not an onerous matter for every citizen, then residence can be interpreted more plausibly as a tacit consent. Rousseau actually thinks that residence indicates consent, but only within free states. In a free state, an act of dissenting is leaving it. Unfortunately, the ancient condition is gone. Most of today's countries are large-scale

\(^{11}\) Hume, "Of the Original Contract", in MacIntyre (ed.), *Hume's Ethical Writings*, University of Notre Dame Press, 1965, p.263.
nation-states. Outside one's state there are others. There is no unoccupied and livable place for those who want to leave their lands. Leaving one's own state is usually the same as entering into another, and the later always requires permission. In any event, leaving the state can never be a real affordable choice for most citizens, not to say, there are tremendously large difference in culture, language, religion, the way of living, etc., between different states. We have to agree with Hume that residence cannot be a sign of tacit consent.

Besides the difficulty raised by Hume, there is another important point that has been missed by voluntarists. In modern states, residence in the country is generally recognized as an inalienable right of that country's natural-born people. The country belongs to the people as a whole, not to the government. The government may have a right to enforce laws within the territory of the country, but the right, on the voluntarist view, comes from the consent of those who have resided in the territory for centuries. There would be no government without a stable group of residents within a territory. The relationship of people to their land is much deeper and more enduring than their relationship to their government. In this sense, residence is a notion that is logically prior to that of consent. From this perspective, it is unintelligible to take residence as tacit
consent.

Another interpretation of tacit consent is in terms of political participation. It says that people tacitly consent to the state by taking part in the voting or electing in a democratic society. Plamenatz advances an argument for this view:

"Where there is an established process of election to an office, then, provided the election is free, anyone who takes part in the process consents to the authority of whoever is elected to the office. This, I think, is not to ascribe a new meaning to the word consent but is only to define a very ordinary, and important political use of it. The citizen who votes at an election is presumed to understand the significance of what he is doing, and if the election is free, he has voluntarily taken part in the process which confers authority on someone who otherwise would not have it."\(^{12}\)

An assessment of the argument above involves very complicated political phenomena even among today's typical democratic states. At the outset, the condition that the election is free is vague in some sense. It can be understood at least at two levels. At one level, citizens are free to take part in the election, and in this sense the election is optional as is in the United States, rather than

being compulsory as in Australia. At another level, voters are free to vote among candidates. For an election to be free, the latter is more fundamental without doubt. If Plamenatz dismisses compulsory election as non-free, we have to accept a quite uneasy conclusion that Australians have consented to their state in an entirely different way than Americans have to theirs. A possible proposal may have to follow Rousseau to define the state as a direct participatory democratic institution in which every citizen is engaged in the public affairs of the state. However, this is highly unrealistic in modern large political societies.

With regard to the issue of free election at the first level, one question is ignored by literature on the subject we are considering. Taking part in compulsory election surely cannot be treated as consent. So, let's only consider the case of optional election. The question is, when citizens are left free to choose whether to vote, do they have an obligation to vote? If they do, there must be some reason for them to vote. And this reason cannot be explained in terms of their actual participation in voting. The obligation to vote is usually thought to be part of political obligations. It cannot be said that one acquires the obligation to vote though further consent. It is hopeless to find such consent. If they don't have an

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13 Horton, J., Political Obligation, Humanities Press, 1992, p.37
obligation to vote, and if, as Plamenatz argues, those who actually took part in voting have tacitly consented to the state, then we are facing with the question of whether non-voters have political obligations at all.

In many liberal democracies the population of people who do not take part in election or refuse to vote are even more than a remarkable minority. Have they consented to the elected governors? The view of those who answered “yes” is not worth careful discussion. For, if voting and not voting are both regarded as consent, then there is no sensible way to tell whether has consented or refused to consent. Nothing can be taken as consent if there is no way to dissent. Then, Plamenatz’s view is limited in two ways. On the one hand, his account presents nothing about the political obligations of people in states where there is no free election; on the other, he can only explain obligations of those who vote in states with free election.

Besides these limits, Plamenatz’s argument contains a deviation from our initial project of justifying the obligation to obey the laws. Plamenatz’s conclusion is that one, in voting, agrees to be bound by “whoever is elected to the office”. But this is not the same as agreeing to be bound by, or to obey, the laws of the state. Obeying the laws and obeying the commands of governors might be related to each other, but they are not the same things. People are
to obey the commands of officials because the latter rightly make and enforce the law, and not vice versa. I am not bound to obey an official if he makes bad laws or breaches the law, even if I voted for him. Consent, if it is properly interpreted, should primarily go to the laws, not to those holding offices. This point is much clear in Socrates' refusing to escape from punishment. Though Socrates mistakes not leaving the city as consent to its laws, he nonetheless thinks that escaping from punishment is doing injustice to the law he consented to, rather than to the officials of the city. At any rate, leaving aside its plausibility, Plamenat's view only focuses on consent to be governed by certain persons, but consent to obey the law takes theoretical priority, and is our primary concern.

However, even Plamenat's account of consent to be governed by elected officials is problematic. According to Plamenat, by voluntarily taking part in the free election one has consented to be governed by whoever gets the office in the election. This is either false or too strong. It overlooks the complex phenomena of election. First, many people might have voted for the candidate who lost. In what sense can we say that they have consented to the authority of the winner? Plamenat's explanation might be like this. A voting citizen is supposed to "understand the significance of what he is doing". Under this condition, he should accept
whatever results from the election if he deliberately decided to vote. This might be true, but its truth is irrelevant to the notion of consent. Before I voted, I knew that my favored candidate might lose. So, if I decided to vote, I should have been prepared to accept the possible results. But there is a difference between the passive "acceptance" and the positive "consent", and it is the latter that is needed by voluntarists to ground the obligation in question.

Even the ideal case in which one's favored candidate won the election might not support Plamenatz's account of consent. Have voters consented to whom they intended to vote for? Suppose there was a Platonic US citizen. He thought only one person, say, Rawls, deserves the position of the US president in 1996, but unfortunately Rawls was not among the candidates. This person even thought that either of two candidates, Clinton and Dole, is worse than no president. However, he took part in voting just for the his reason that, though both candidates are bad, one of them is a little bit better, and eventually the one this fanatic Platonic person voted became the winner. Can we say that the citizen consented to whom he voted for by his voting? I can't see the reason for saying "yes". The fanatic person may feel better about the result, but such a feeling is quite different from the positive consent than can generate
moral obligation. The example of the fanatic person is not far away from today's political reality. Even in today's mature democracies, the choices for voters in an election are very few. If there are only two candidates running for a position, there are only three options for voters: not to vote at all, to vote for one, and to vote for another one. There are ample of cases in which people vote not for the sake of getting the best, but for the sake of avoiding the worst. If my point is sound, then we have been able to see that the relation between those who vote and the resulted winner in the election are too morally weak and vulnerable to create the expected sort of political relationship between them. The consent in Plamenatz's argument takes place in voting citizens only if they satisfy the following conditions to have political obligation: (1) they thought they should vote and voted; (2) they voted the winner of the election; (3) they thought the winner reasonably met their best political expectations. It is easy to conceive that such citizens are considerably few. Most citizens' political obligations, if there are, have not been explained by the idea of tacit consent as political participation.

Perhaps, a more plausible way to treat political participation as tacit consent is to say that by taking part in political activities one tacitly consents to the basic structure of the political society, not necessarily and
directly to the elected government or officials. Consent thereafter refers to on-going recognition and approval of the constitutional elements of the polity. It might be claimed that in liberal democracies constitutions grant citizens a right to vote, and by exercising this right people possess the power to make and change laws, select and replace officials. Then, letting the laws and officials go on might indicate a tacit consent to these laws and officials. This seems to show that most citizens, including voters and non-voters, have given consent. However, difficulties with this view still remain. First, it implies that in democratic societies most citizens have automatically consented without doing anything, because going along with the political arrangements is interpreted as consenting to them. But this is not true of those who refuse to participate. We cannot say that these people have also consented. Second, if consent is understood in this negative sense, we are less inclined to think of a theory based on it as voluntarist. On the voluntarist principle, an obligation on a person must be generated through his own voluntary act.\textsuperscript{14} It is hard to take being idle in political process as political consent, even if such process is liberal democratic.

\textsuperscript{14} Typical voluntarist theorists require that datable, voluntarily performative acts be necessary in order to generate obligations. Simmons claims that “willing acquiescence ... grounds no obligation...” See his On the Edge
So far we have examined the pivotal version of the voluntarist approach, the real or actual consent theory. We have discussed some major interpretations of real consent, and seen that none of them has shown that most citizens have a duty to obey the law of the state. In the next section, I will turn to another proposal that construes consent as hypothetical.

A real consent is an event that happened in one’s personal history. It is a dateable act, as many voluntarists claim. Real consent theorists maintain that whether or not there is such an act in one’s personal history determines whether or not one has consented and acquired obligations. Hypothetical consent theories are quite much different. They don’t require us to look at or single out voluntary acts in our personal history. Rather, they ask us what we as rational beings would do or would have been done if there were no government ruling us at all.

Actually, the hypothetical interpretation of Hobbes’s conception of the state of nature goes exactly along this line. According to Hobbes, the state of nature, in which people are in constant wars of all against all, is the worst of Anarchy, Princeton University Press, 1993, p.215.
situation we could conceive. For Hobbes, being subjects of any sovereign is more desirable than being completely free in the state of nature. This seems to justify the political authority in a quasi-voluntarist way: citizens should consent to and maintain their state because failure to do this is against their interest.

The Hobbesian argument then can be reconstructed as follows: Imagine that one was in a state of nature, or was outside any civil society. If he were rational and prudent, he would try his best to create a government for his protection by contracting with others or by joining a civil society. Because his would-be choice was rational and free, it is voluntary as well. Did this would-be choice show his consent to his current government?

We’d better believe that the answer is “No.” We may admit that it is in the citizens’ interest to have a government whatsoever (even this is refuted by Locke), but this is irrelevant to the voluntarist project to justify political obligations in terms of voluntary consent. The argument above can, at most, convince us that there are reasons for people to consent to the state, whether or not they have in fact consented. It at most suggests that there are reasons for people to assume political obligations, but does not show us how such obligations are assumed.

We can pursue this issue a little bit further through
Locke's criticism of Hobbes. Locke argues against the absolutist view that any government is better than no government by pointing out that people would fare worse in a bad government than in the state of nature. For Locke, the Hobbesian one-sided obligations are unacceptable, only legitimate government could claim political obedience. What is a legitimate government? Locke seems to have a double standard for political legitimacy. One the one side, he holds a real consent view of political legitimacy, that is, a government is morally legitimate if the governed have consented to it, whether expressly or tacitly. On this view, as we have argued, few or no governments have the quality of moral legitimacy. On the other hand, he thinks that a government is legitimate if it protects the subjects' natural rights to life, possession, and liberty. However, these two standards of political legitimacy can hardly hold together harmoniously in a voluntarist theory, because it is too optimistic to think that most people have always consented to governments that protect their right. There is neither an empirical nor a conceptual connection between these two standards of political legitimacy. Pitkin proposes a solution by dropping off one of the two standards, and this is what she calls "the doctrine of hypothetical consent".

"For a legitimate government, a true authority, one
whose subjects are obligated to obey it, emerges as being one to which they ought to consent, quite apart from whether they have done so. Legitimate government acts within the limits of the authority rational men would, abstractly and hypothetically, have to give a government they are founding. Legitimate government is government which deserves consent."\textsuperscript{15}

Pitkin's view seems attractive. However, for our purpose in this chapter, we need to consider its relevance to the voluntarist approach. First, a hypothetical act does not seem to be an act if we are following the most ordinary usage of "act" in the language. Suppose I hate someone. I believe I would have killed him if I had chance. Could I be convicted of the crime of murder in terms of my hypothetical act of killing him? While it is not an act, nor is it a voluntary act. If hypothetical consent is not a voluntary act, it cannot be taken as a clear sign of consent desired by voluntarists. Second, Pitkin's doctrine of hypothetical consent actually is far away from the version of voluntarist account of political obligation we are examining. She argues that some sort of government is worthy of consent. This means that there is something more fundamental than mere actual consent. That is, as she says, the moral character of a legitimate government binds us to consent to it: we ought

\textsuperscript{15} Pitkin, H., "Obligation and Consent", in P. Laslett, W. G. Runciman and Q. Skinner, (eds.), Philosophy, Politics and
to consent to obey governments with moral legitimacy. Following this line, it is not the consent, but the moral features of the state that ground the citizen’s obedience. In which sense is such a picture is voluntarist?

Rawls’s argument for the idea of hypothetical consent is worth discussing here. Rawls holds a similar view to Pitkin’s, though his argument is much more sophisticated than hers is. Rawls’s primary concern is not to advance an account of political obligation, but to derive principles of justice for the basic structure as well as moral principles for individuals in terms of the idea of social contract. The social contract in Rawls is a hypothetical contract. It takes place in an imagined situation, the so-called original position, in which contracting parties are deprived of knowledge that would enable them to choose principles that are to the their own interests or favor their own conception of the good. Rawls thinks that, (1), free and equal persons would consent to some principles in the original position, and (2), the consent is as close as possible to real unanimous agreement. The principles that apply to individuals are relevant to our issue of political obligation. One of them is the principle of natural duty to support just institutions. The first assertion shows that the principles are psychologically accessible, whereas the

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second shows that they are morally binding. For our purpose, we only consider the second assertion. Rawls's idea is that because the hypothetical consent to the principle of natural duty amounts to a real agreement to it, such a duty can be explained in the contractarian terms. It is morally binding because it is as if we have actually assumed it for ourselves, or we have promised to obey it. A fuller examination of this account of political obligation as the natural duty to support just institutions will be presented in chapter 4. Here I am only interested in the question of how much the sense is in which this account is voluntarist. I have to say, "very little." The point is that if a hypothetical contract morally binds as much as an actual contract does, it makes no sense to emphasize the moral significance of the latter. Is there any difference between the way in which a hypothetical contract generates obligations and the way in which an actual one does? If not, the term "contract" that appears in Rawls is just an abuse of language. If any, what does the difference consist in? Rawls himself admits that some duties, like the duty not to harm, binds without actual consent,\textsuperscript{16} but this is different from saying that their binding force can be derived from the fact that people would have agreed to obey it. Dworkin remarks that "A hypothetical contract is not simply a pale

\textsuperscript{16} See Rawls, 1971, p.114.
form of an actual contract; it is no contract at all.\textsuperscript{17}

The conclusion is that the doctrine of hypothetical consent is not a version of voluntarist account of political obligation.

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The main purpose of this chapter is to consider the voluntarist approach to the problem of political obligation, which grounds citizen's duty to obey the laws of the state on their voluntary undertakings. I divide these acts into two categories, real consent and hypothetical consent. The doctrine of real consent can only justify the political obligations of the very minority. That is, very few people have expressly or tacitly consented to the state. The doctrine of hypothetical consent is proved not to be a voluntarist defense of the notion of political obligation.

However, so far I have not said anything about the plausibility of this sort of voluntarism. It has been argued that it failed to justify the common belief that most citizens have a duty to obey the state. But it might be said that we should abandon this belief. This is what Simmons does, and it is a good strategy to save one's theory from

\textsuperscript{17} Dworkin, R., "The Original Position", in N. Daniels, (ed.), Reading Rawls, Basic Books, 1975, p.18.
incoherence by dropping off some common belief or intuition. It seems that this is the only way to keep voluntarism being coherent, even though from another perspective it is at least a kind of pity that a theory has to take pain in denying a quite familiar conviction. There is always a principle of reflective equilibrium that demands theorists to look for a more balancing position.

Now it is quite clear that the view that political obligations are voluntarily assumed will finally lead to an anarchistic position that most citizens don't have political obligation. But before we get to a more general conclusion about the necessary relation between voluntarism and anarchism, we need to answer the following questions: what is the foundation of voluntarism? How can voluntarism be justified? The next chapter will focus on these questions.
Chapter 3 The Morality of Promise

The conclusion we reached in chapter 1 is a simple one, namely, that it cannot be shown that most citizens have ever consented to be governed by the laws of their states. This conclusion leaves us with a sort of theoretical uneasiness: something like what Gilbert called "a skeptical paradox", a term borrowed from Kripke's interpretation of later Wittgenstein. Voluntarists start by trying to justify the belief that most citizens have political obligations, and end by concluding that the belief cannot be justified.¹ Put it in another way, the voluntarist attempts to justify the belief orient us to a denial of the belief.

The mere sense of the theoretical uneasiness does not suffice to enable us to reject the voluntarist approach. For voluntarists might coherently hold the following two positions: the voluntarist conviction that consent is the sole ground of political obligation; and the anarchist view that most citizens, nevertheless, don't have political
obligations simply because they have not consented. To examine the plausibility of political voluntarism, we need to reflect on its deep assumptions, especially, the voluntarist principle. Such reflection, as will be shown in this chapter, reveals the limits of the voluntarist approach. It appears to me that its major difficulties result from a double defect of the voluntarist principle. First, the voluntarist moral position cannot be self-justifying. The best defense of the voluntarist principle must presuppose some duties that are independent of any voluntary undertakings. This defect is vertical, because it indicates that voluntarism is superficial. Second, the voluntarist principle can at most be a partial moral principle. It fails to capture the wide variety of our moral practices, and to explain the complex moral phenomena. In this sense, voluntarism is a narrow theory of morality. I will, first, explore the superficiality and narrowness of voluntarism; second, highlight some essential assumptions of the voluntarist approach that prevents voluntarists from advancing a satisfactory account of political obligation, and finally, suggest a transition to

non-voluntarist approaches to the problem of political obligation.

Many find the voluntarist principle appealing. Some think it is more than obvious. The reason is as follows. Individuals are born free, and equal to each other. No one is naturally under the authority of anyone or anything else. An obligation, if it is genuine, is a restriction on one’s behavior, requiring that one act in an appropriate way. How could such a restriction be possible? It seems that the only possible answer is that individuals voluntarily assume such a restriction on themselves. Only their voluntary assumption of obligations is compatible with their natural freedom, because a voluntary act is also a free act.

However, we should notice a problem confronted by voluntarists. On the one hand, for most people, being a member of a political society could by no means be interpreted as either a voluntary act or a result of voluntary acts. On the other, most voluntarists agree that being in a political society is morally the necessary
alternative to being outside any political society. When we stop at the claim that only voluntary acts can generate the authority of the state on the one side and obligations of the citizens on the other, on reflection we feel that we are somewhat cheated by voluntarists. Take Hobbes's theory as the example. According to Hobbes, the state is a product of an exchange between natural rights and protection. Such an exchange must be free because men with natural rights are free. There would be either anarchy without the exchange or alternatively a civil society after it. When the subjects get protection from the sovereign at the cost of some of their natural rights, they acquire obligations not to exercise the rights they surrendered, and to obey the sovereign. "[T]here being no obligation on any man which ariseth not from some acts of his own." But Hobbes also claims that any civil society is better than anarchy and the latter must be what men should abandon. Then the problem is not whether you consented, but whether it is in your interest to be a member of a state, and the answer is: civil society is necessary independently of consent. That amounts to a saying that whether you consent or not, you are obligated (for objective, though not necessarily moral, reasons) to live in or to be a member of a political

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society. Consent makes sense in so far as there remains a question of whether people have a choice over which state to join in, who should govern, etc. But this is quite irrelevant to the claim that the legitimacy of the ruling and the obligations of the ruled are derived from the consent of the latter. In so far as men as members of a state must be in a different moral situation than they were in the state of nature, and to be members of a state is their only option, their obligations, though the content of them are disputable, are pre-established. The point is that, if voluntarists think civil society is morally a necessary alternative to the state of nature, whether it be a real or a hypothetical state of human situation, the necessity of civil society then becomes an independent fact, a fact obligating men to create or maintain a civil government and hence grounding the moral legitimacy of the state in an imperfect sense. Thus, voluntarists are left with two unharmonious explanations of political obligation that they must hold simultaneously: (1), individuals are obligated to obey their state because they have consented, and (2), it is in their interest to obey, and consent is irrelevant.

Voluntarists take (1) as the sole explanation of political obligation for the reason that the political bond
must be a moral bond. Pursuit of this issue gives us one more feeling that we are cheated. For voluntarists, especially for classical contractarians, the political relationship is created through the voluntary undertakings of the governed. Thus, to be responsible for the relationship is to be responsible for their voluntary undertakings like agreements, promises, consent, etc. Self-assumed obligations are moral in the sense that failure to fulfill them is failure to keep promises.

However, promising is a complex matter. There are many cases in which breaking a promise is not a moral failure. There are also a lot of cases in which fulfilling the terms of a promise is doing a morally wrong thing. It turns out that voluntary acts are not always sufficient to generate obligations, and in some cases they are not necessary for acquiring obligations. I will argue that voluntarism cannot be convincing without a carefully developed view of the relation between promise and morality. Further I will show that such a view, in return, causes voluntarism to lose its standing in accounting for political obligation.

On the voluntarist picture of political obligation, individuals agree to comply with the state because they consent to its authority. The implication is that consent gives rise to obligations of promise, and hence
disobedience amounts to breaking a promise. This is not to say that disobedience is always unjustified, since breaking a promise can be justified under many circumstances. It is highly problematic that even consent or promise can give rise to obligations. The classical example is the contract of slavery. We will not be inclined to say that the voluntary relationship between the slave and the master generates a prime facie obligation of servitude on the former. The slave can give up the servitude whenever he or she can without being guilty. Also, being committed to morally unacceptable enterprise generates no obligations. For example, most people don’t think a deliberative decision of suicide gives rise to an obligation to kill oneself.

According to the standard view of the obligation of promise keeping advanced by Rawls, there are social practices, which define the rule of agreement making, on the one hand, and also judgments concerning the moral right or wrong of a certain form of behavior or conduct, on the other. On this distinction, a mere oath or promise, which comports with the social practices or conventions, is not sufficient to give rise to obligations. Whether a promise

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morally binds depends on the condition of the moral character of the promise in question, and on the circumstance under which the promise is made. Then the contract of slavery generates no obligations because the relationship generated by the contract is inherently unjust. Can voluntarists free their view from the difficulty raised in the slavery case by appealing to this standard view of the obligation of promise? They may restate their position as this: Under the condition that the state acts justly or nearly justly, the consent of the citizens gives rise to the obligation of obedience, and then the wrong of failing to fulfill this obligation is a moral wrong of breaking a promise.

Can we accept this view? Within the voluntarist framework, the deal citizens make with the state is not merely an exchange between the benefits and the consent to obedience, but more profoundly an exchange between the benefits and obedience. The first virtue of an exchange is its fairness. Fairness lies seemingly in the former but deeply in the latter. There is a subtle distinction between A's doing something T and A's promising to do T, though A's failing to do T can also be described as failing to keep the promise to do T. Take an ordinary instance. When A borrows $20 from B in a morally normal situation, what A
owes B is not merely a promise to return the money, but an act of returning it. Suppose A owed B $20 and A didn't have cash to return to B. They made an agreement that B could select a book from A's bookshelf as the return and A promised that the book would go to B in one week. Finally B got nothing from A. What moral principle did A disobey? The answer that A failed to do the duty to keep his promise seems superficial. A might be accused of not keeping his word, but the wrong A was committed to is more than that. This may be shown in an imagined trial. If there would be some punishment on A, it is not just an apology from A. Though A has a duty of fidelity to keep his promise, the wrong of his refusing to return B the money or giving B the book is not merely a wrong with respect to the duty of fidelity, but more profoundly a wrong of doing harm to others. The just punishment would force A to return the money or surrender the book. The point that can be made here is that breaking a promise is just a vague way to describe citizens' disobedience.

The voluntarist inference is that we have political obligation because we made a promise, and the obligation binds us because we have a duty of fidelity. However, the duty of fidelity has no voluntary basis. One cannot assume for oneself a duty of fidelity by making a further promise,
since this will cause an infinite regress of promising. On Hume's view, we cannot simply assumed that we have a duty of fidelity and this duty is unquestionable, for the following question can still be meaningfully asked: Why should we keep our promises? Hume, by characterizing the duty of fidelity as a "artificial virtue", answers that it is required by a civilized life. This duty, then, is derived from prudential reasons: it is in everyone's interest to keep promises. Without it a civil society would be unstable and dissolved. This is quite similar to Hobbes's defense of political bonds. In Hobbes, the political bond through covenant does not seem to need a moral justification: the political chain binds people not because of there being a duty on people to maintain it, but because of the great danger of breaking it.\textsuperscript{4} On this line of though, the morality of voluntarism seems to drop out from the whole picture. The political bond will no longer be a moral bond.

Voluntarists may take Rawls's line. Rawls also argues that the duty to keep a promise is not a consequence of the promise, but a consequence of the principle of fairness.

"It is essential, ... to distinguish between the rule of promising and the principle of fidelity. The rule is simply

a constitutive convention, whereas the principle of fidelity is a moral principle, a consequence of the principle of fairness. For suppose that a just practice of promising exists. Then in making a promise, that is, in saying the word "I promise to do X" in the appropriate circumstances, one knowingly invokes the rule and accepts the benefits of a just arrangement. There is no obligation to make a promise, let us assume; one is at liberty to do so or not. But since by hypothesis the practice is just, the principle of fairness applies and one is to do as the rule specifies, that is, one is to do X. The obligation to keep a promise is a consequence of the principle of fairness".5

It seems on the surface that what Rawls provides here is distinct from the Hobbes-Humean account of promising. But this is indeed an illusion. Rawls rejects an analytic or conceptual account of promising, which holds that promising conceptually implies an obligation to do what is promised. For he thinks the conceptual point is a confusion of two different rules, the rule of promising within the frame of a non-moral constitutive social conventions or practices, and the rule of fidelity that is a general moral principle. With respect to the former, there are different  

kinds of rule of promising, and whether a promise binds or not cannot be determined solely by the social conventions. It depends on whether the social practice in which the rule of promising lies is just or not. The principle of fairness states that people who voluntarily take part in and take advantages of a just mutual beneficial cooperative scheme are obligated to do their fair part as defined by the scheme. Given a just background of social practice, individuals, by promising, take the advantage of making stable agreements, confidently ordering the future, etc. Then it is the principle of fairness that binds them to their promises. "Whether the particular practice as it is understood by a person, or group of persons, is just remains to be determined by the principles of justice."\(^6\) However, when we continue to ask this question, why does the principle of fairness bind us to our promises in a just social practice? Rawls seems to have two different answers. But as I will argue below, these two answers eventually converge on the Hobbes-Humean point.

One the one hand, Rawls thinks that ethical principles must be understood as the outcome of a hypothetical agreement in the original position.\(^7\) That means that the

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\(^7\) Rawls, J., 1971, pp.115.
parties would choose the principle of fairness in the original position. This seems to say that the principle of fidelity binds because parties would voluntarily chose it in the original position. It is quite questionable whether this is so. Since we have argued that hypothetical agreements are not real voluntary acts, we'd better not interpret Rawls as holding that the duty of fidelity is based on voluntary undertakings. On the other hand, the reason why parties would agree on the principle of fidelity, according to Rawls, seems to be a mixture of two elements. Rawls assumes that "the standard reason for making promises is to set up and to stabilize small-scale scheme of cooperation, or a particular pattern of transactions." The role of promises is like that of the Hobbesean sovereign. While parties involving in promising are aware of the instability of keeping words, they may realize that the only way to make the scheme secure is to put themselves under an obligation to keep words. "The practice of promising exists for precisely this purpose; and so while we normally think of moral requirements as bonds laid upon us, they are sometimes deliberately self-imposed for our advantage. Thus promising is an act done with the public intention of deliberately incurring an

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obligation the existence of which in the circumstances will further one's ends." It is quite surprising that Rawls finally, after a long trip by his theoretical apparatus, comes back to Hume's point that it is in one's interest to be moral. Rawls simply assumes that knowing the point, parties in the original position would choose the moral principle in question, for they know that cooperation whose aim is to further their ends would not be possible without their fidelity.

On the other hand, Rawls notices that the principle of fairness is relying on a sense of justice of all, and that in a well-ordered society there is a mutual confidence that the obligation is honored by all. This is not an argument or a justification for the principle from the perspective of the original position. Rather, it is an explanation of how such a moral principle could be realistic or whether there is something ready in the society's members' minds for them to accept and observe the principle in actual social life of a well-ordered society. Or put it in this way, the duty of fidelity is rooted in the social practice or in the public intention of a well-ordered society. If so, how does the distinction between the pure formal constitutive social convention of the rule of promising and 

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the independent moral principle of fidelity hold? For the wrong of breaking a promise can be explained either in terms of its contradiction, either with the social practice, or with the moral principle. An ordinary observation seems to be against the distinction; social practices may embody moral values. For example, for any mature social practices, a coerced promise is not merely institutionally, but morally, invalid. It is quite implausible to describe social practices or conventions as merely defining the formal aspect of the institution of promising.

Scanlon presents a new way to account for promises. He argues that

"The wrong of breaking a promise and the wrong of making a lying promise are instances of a more general family of moral wrongs which are concerned not with social practices but rather with what we owe to other people when we have led them to form expectations about our future conduct."^10

This appears as a more intimate view of promise. By breaking a promise or lying to others, one hurts those who are affected by and sensitive to his word. Such wrongs are

more closely and directly related to moral sensibility than to a hierarchy of moral principles. I believe this view has a significant application to the issue of political obligation. The basic idea is this. We owe obligations to those who are tied to us in various ways, even though such ties are not marked by datable voluntary acts between all of us. Those who are tied together are more sensitive to each other's conduct than to others without the ties.\textsuperscript{11} Such ties are generally the outcome of and defined by, various social practices. Family, friendship, country, etc., are the salient instances in which these ties exist. A more complete development of this line of thought will be deferred into a later chapter, because the idea can't be valid until a correct analysis of these ties.

What we have reached is quite adverse to voluntarism. Actually, there is a simpler way to describe voluntarism, that is, voluntarism cannot be coherently self-justifying. Voluntarists have to justify their position from a non-voluntarist perspective. The voluntarist principle is not the final word about human reality.

\textsuperscript{11} As to one of the ties, citizenship, Nagel has the following remark: "Citizenship is a surprisingly strong bond, even for those of us whose patriotic feelings are weak. We read the newspaper every day with rage and horror, and it was different from reading about the crimes of
In the next section, I will provide reasons why voluntarism misunderstands the real nature of political obligation.

The vertical superficiality of voluntarism has been criticized. Now I switch to its horizontal narrowness. The narrowness is to be shown as the ignorance of the ample aspects of human morality. With this two joint features, voluntarism fails to be a grasp of "the robust sense of reality", to borrow Russell's phrase.

Obligation, in its broad sense, refers to some standard of human behavior or conduct, acting contrary to which is wrong, especially in the absence of overriding reasons. There is a complex network of social practices that define a complex family of obligations in any human society. The following is just an incomplete list of obligations commonly thought to be owned by people, which are hardly to be regarded as being voluntarily undertaken.

First, there are a cluster of obligations that are owned by individuals simply because they are human beings. Examples are the obligation to aid the needy, the obligation not to harm, the obligation to promote what is just or good, etc. Even the obligation to keep promises, or not to lie, does not arise out of voluntary undertakings.

Second, most people think they have obligations of special concern toward those to whom they are related in some ways, like family members, friends, neighbors, fellow members of a community, etc. These obligations are role-related and noncontractual in character. They pose a serious problem with the voluntarist morality.

Third, there are established social norms, which make normative sense in a way in which acting against them may not be a inherent wrong, but will offend the group of people who are under these norms. For example, you have an obligation to observe the traffic rules wherever you travel; you have an obligation not to order pork meal in a Muslim restaurant.

Forth, we may even owe obligations to those who have not existed yet, like future generations. Our present conduct will have impact on the welfare of these upcoming people, and this consideration put restriction on both our personal and collective behaviors. Many people even think
they have obligation to preserve their historical and cultural heritages. Even though the list of all of these obligations is far from inclusive, I doubt that the single voluntarist theory could cover them.

According to the voluntarist view of obligation, whose prevailing, standard, and systematic version is advanced, again, by Rawls, all obligations come out as the product of voluntary acts under just institutions through the principle of fairness. In this sense, all obligations are contractual.

"There are several characteristic features of obligations which distinguish them from other moral requirements. For one thing, they arise as a result of our voluntary acts; these acts may be the giving of express or tacit undertakings, such as promises and agreements, but they need not be, as in the case of accepting benefits. Further, the content of obligations is always defined by an institution or practice the rules of which specify what it is that one is required to do. And finally, obligations are normally owed to definite individuals, namely, those who are cooperating together to maintain the arrangement in question. ...We acquire obligations by promising and by tacit understandings, and even when we join a game, namely,
the obligation to play by the rules and to be a good sport."\textsuperscript{12}

However, aside from the passage above, Rawls also emphasizes that we also have natural duties that are irrespective of our willingness to accept them. These duties are involuntary obligations in the first group in the above list. They are duties owned by all to all as human beings. Their applications are unconditional independently of the circumstances. Rawls explicitly states that "in contrast with obligations, it is characteristic of natural duties that they apply to us without our voluntary acts."\textsuperscript{13} This provision of involuntary natural duties at least put voluntarists in an agonistic position. The existence of natural duties suggests that voluntarism is not the whole story about human conduct.

Leaving aside these natural duties, can we apply Rawls's view to account for obligations of special concern, the obligation to comply with some well-established social norms, the obligation to future generations, etc.? Before we answer this question, we need to remove an ambiguity in Rawls's statement.

\textsuperscript{12} Rawls, 1971, pp.113.
\textsuperscript{13} Rawls, 1971, pp.114.
Rawls says that we acquire obligations in two ways, by promising and by tacit understandings. While promising is definitely under the category of voluntary acts, it is quite a subtle and hard task to locate tacit understandings. Tacit understandings, as opposed to declarative and performative acts like promising, range over very low degrees of voluntariness. For we may even say we accept natural duties by tacit understandings. However, if tacit understandings apply to both obligations and natural duties, how does the distinction between the voluntary character of the former and the involuntary character of the latter hold? The formation of tacit understandings is a collective product through socialization over time. A tacit understanding is not a distinctive act; it is not even an act at all. I would like to conjecture that tacit understandings refer to a kind of readiness to accept some rules in question with an awareness that these rules are also acknowledged by other parties in question. But this kind of readiness to accept the rules cannot serve as the ground of my obligation to follow these rules. Also, these rules are binding not because I have a tacit understanding of them. For example, I may find some pattern of restriction reflectively acceptable, say, not to smoke when playing chess with
somebody else. But it is quite absurd to say that such reflection refers to an act of promising that obligates me to comply with that pattern. It is more absurd to say that the obligation not to smoke in that situation arises as a result of my tacit understanding of the situation in which I am.

With the distinction between the performative voluntary acts and the attitudinal tacit understandings, we can see the trouble Rawls has accounting for the obligations of special concern like familial obligations. We have seldom performed any acts or promised to assume such obligations, if they exist at all. Do we acquire them by tacit understandings? A positive answer is trivially right and uninformative because we can explain any noncontractual obligations in terms of tacit understandings. This does not seem to go in favor of the voluntarist position. If tacit understandings generate obligations as voluntary acts do, the distinction between contractual and noncontractual obligations loses its standing.

Rawls's picture is also faced with the difficulty in explaining our obligation to future generations. How could we generate our obligations towards those who can never be parties with us in the existing cooperative scheme on the
principle of fairness? First, we are not able to literally promise to those upcoming people in so far as a genuine promise presupposes the existence of both parties of promising and being promised. Second, we seldom seriously promise to each other with regard to the future people. The absence of such promises can by no means indicate the absence of the obligation. Since our present behavior will tremendously affect the well-being of future generations,\textsuperscript{14} we are obligated by objective reasons to act in favor of them.

Church, parties, movements, and even underground regimes are forms of association or group. It is a plain fact that members in a group owe obligations to each other, obligations varying in strength and content. Membership of these groups usually pose restrictions on their members' behavior. Some of these groups are voluntary; some are less than voluntary. The complexity of social groups indicated a corresponding complexity with respect to the incurring of obligations. If voluntary undertakings are explained in terms of distinctive, deliberative, and datable performative acts, voluntarists will not be able to account for a vast variety of obligations.

\textsuperscript{14} For a prominent discussion of this point, see D. Parfit, Reasons and Persons, Part IV, Oxford, 1984.
The point is that if we do have obligations that don't arise out of our voluntary undertakings, voluntarism suffers from the defect of overlooking the complicated facts about human obligations and morality. To avoid these difficulties, some voluntarists take the move of denying the existence involuntary obligations.\footnote{For example, not to mention his denial of political obligation, Simmons is even inclined to think that children don't owe obligations to their parents merely performing their positional duties of care of them. See Simmons, 1979, p.182-83.} While this move is logically possible, we have to pay price for it. Hardimon rightly points out the price. He argues that it is deeply rooted in our self-conception that we have morally binding role-related obligations. Specially, the acknowledgement (or tacit understanding) of these obligations constitutes an essential part of our conception of ourselves as citizens, as sons or daughters, brothers or sisters, and so forth. Hardimon assumes that "most of us do at least tacitly conceive of ourselves as family members and citizens, that these (possibly implicit) self-understandings are central to our own general self-conception, and that we can, through reflection, come to recognize that we do in fact conceive of ourselves in these
ways." 16 Abandoning the notion of noncontractual obligations in question, according to Hardimon, would radically change the way we factually conceive of ourselves and the way we lead our lives. For the former, we cannot coherently say that we can easily deny the notion of noncontractual obligations without ceasing to identify us as family members and citizens. For the latter, our acting as family members and citizens is an essential part of our lives. Hardimon concludes that "few of us would be willing, on reflection, to renounce the idea of noncontractual obligation. We need to hold on to the notion in order to hold on to our conception of ourselves as family members and citizens." 17

Noncontractual obligations do raise a problem for the voluntarist conceptions, because there is a tension between their existence and the voluntarist principle. From the standpoint of theoretical construction, it is unwise to deny some intractable phenomena in order to save a single principle. On the other hand, the voluntarist principle itself is far from being unquestionable and privileged. It needs justification as any other moral principle does. I see no principles being able to be immune to rejection in

our web of knowledge. We have seen that one of the
weaknesses of the voluntarist principle is its inability to
account for natural duties. Why should we stick to it and
be blind to the abundant human moral practices?

I have shown that the voluntarist principle is a
narrow principle to the effect that it cannot cover a list
of human obligations including noncontractual obligations,
if they exist at all. The positive defense of the notion of
noncontractual obligations will be given in chapter 6. With
the conclusion we reached in the last section, it suffices
to say here that the plausibility of voluntarism is
severely decreased.

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Several assumptions entailed in the voluntarist
approach to the problem of political obligation will be
examined in the following.

Voluntarism is committed to a simplistic understanding
of political relationships. Some voluntarists simply divide
the political society into two parties, the governors and
the governed. Political relationships, then, are ones of

17 Hardimon, 1994, p.347.
the governed to the governors. For example, Plamenatz says, by consent as voting in a representative democracy, the governed grant the elected governors the authority to act in certain ways. But the relationship between the ruling and the ruled is only one among many political relationships in a political society. The single relationship view can be refuted by the fact that it is not the case that people in a political society are only bound to the government. Rather, they are first bound to each other in the name of the citizens of their society. They create and maintain their government because it is instrumental to their common life. A nice statement of this position is Walzer’s, which describes the political society metaphorically as being built on a “horizontal” contract that binds members of the society to one another. As to the obligation of national defense, Walzer points out,

“There is no ‘vertical’ or governmental contract—at least, not one that is mutually binding. Though the community requires a government, it is not the case that the citizens are bound to the government to defend it against foreigners. Rather, the government is bound to the

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18 Rousseau makes the same point in The Social Contract: “As a member of the sovereign people he owes a duty to each of his neighbors, and, as a Citizen, to the sovereign people as a whole”. (p.182 in Barker.)
citizens to defend them against foreigners. That is what it is for, or one of the things it is for. The citizens defend one another and their common life; the government is merely their instrument.\textsuperscript{19}

The single relationship view also implies implicit identification of political obligation as political obedience. That is, political obligations are treated by voluntarists as obedience to the commands of government or to the laws. Such identification seems to be a logical move in the voluntarist framework. Voluntarist theories explain political obligation as a matter of promising. However, the analogy, as Pateman points out, "is not between political obligation and promising as a generalized social practice, but between political obligation and one specific form of promising: namely, promising to obey."\textsuperscript{20} However, this identification puts voluntarism into a predicament. Even given that contract or consent generates the obligation to obey, we find that the voluntarist project is to seek something from nothing. First, as we claim in the last paragraph, there is no contract between people and government. Second, even granted that there is a Hobbesean

hypothesical contract, the obedience generated by such contract is morally void, for obedience would go to what is at least morally acceptable and government does not morally deserve obedience just because it is a government. Political obligation is a much wider notion than political obedience. History has shown that people have a right and are also obligated to send tyrannical sovereigns to the scaffold. Obedience is one of people’s possible ways to fulfil their obligations; there are others. Disobedience and even rebellion can also be people’s rights and obligations. The treatment of political obligation as obedience to the government or to the law is eventually a misunderstanding of the whole issue. Unfortunately, this treatment also takes place in some other non-voluntarist theories of political obligation, like the gratitude theory and the natural duty theory, which I will discuss in the next chapter.

Moreover, voluntarism assumes another misunderstanding of political society. The most common feature of voluntarism is perhaps that there is an analogy between states and voluntary associations like a club. This analogy is too remote from our common sense to deserve much discussion. Citizenship is not acquired by consent or contract; this is an essential feature of the state that
distinguishes itself from voluntary association. People are born into their society, their memberships are granted at birth.

There is one voluntarist theory advanced by Beran that might deserve a separate discussion, for it contains a fresh and interesting interpretation of voluntary undertakings with the assumption that political society is a voluntary association. Being loyal to the voluntarist tradition, Beran tries to save the consent theory through his elaborated "the membership version of consent theory". The basic structure of his argument is as follows:

"(1) In accepting membership in a rule-governed association one agrees to obey the rules of the association.

(2) In agreeing to obey the rules of an association one assumes an obligation to obey these rules.

(3) The state is a rule-governed association. Therefore,

(4) In accepting membership in a state one assumes an obligation to obey to law of the state."\(^{21}\)

This argument first looks like an improvement over Locke's theory, for it adds a restriction "rule-governed"

to the state. This seems to show some limits of the theory: it is about the political obligation of the ruled-governed people. However, the term "rule-governed" is vague. A totalitarian state may be rule-governed. But this problem is not what I am concerned with here. Beran admits that most people are born in their state without choice. The question arises with respect to the first premise: in what sense does one voluntarily accept membership? Since, he believes, people can give up their membership by either emigration or secession, there is a strong sense in which people can freely reassess and manipulate their membership. They can accept the membership by continuing residence in the territory of the state; they can also refuse or abandon membership through means like secession or emigration. Then he concludes that, by accepting membership as continuing residence, citizens show their consent to the state and grant the state political authority over them and acquire the political obligations to comply with the state. It seems to me that the introduction of acceptance of membership into the scenario is redundant from a theoretical perspective, because it can be replaced by the Lockean "continued residence" or "applying for residence in the territory". We can just drop off "accepting membership" without big pain. It is useful only in accounting for the
naturalized citizens' political obligation. Even to this, we can substitute it for "voluntarily enter into and reside in the state". In so far as the case of naturalized citizens is minor, we don't need to pay much attention to it.

Something fatal to Beran's theory is a distinction between membership of a community or society and citizenship of the state, which claims to be conterminous with the society. In most cases, we use them interchangeably because for most people the two coincide with each other. The former involves a relationship that arises out of bonds based on social and political tradition. Such a relationship is hard to describe accurately. It involves the mutual recognition between the group of people. The later refers to a legal status that can be manipulated through formal procedure. Acquiring the former usually takes decades or even generations, and it is hard to decide when the acquiring is successful. Sometimes you are a member of a community even without the corresponding citizenship. On the other hand, there is always a transparent fact that shows that you get a citizenship, for example, you obtain a passport or certificate from the state you wanted to emigrate to. Having this distinction, let's see what happens to Beran's
theory. His first premise, then, should be restated as "in accepting citizenship in a rule-governed association one agrees to obey the rules of the association." This may do well in respect of naturalized ones. How about the natural-born members and citizens (we know these two statuses fit each other for the majority of a state or society)? What if one of them shouts, "accepting citizenship? Why? How? This is my country; I am living with my people. Who are you? Who grants you the right to ask me whether I accept the citizenship that I am entitled to by birth? I am entitled to the citizenship even though the present government is replaced by another tomorrow. If the government is good, we support it; if it is bad, all of us need a new one"?

The point that needs to be made is that Beran's theory is neither psychologically probable, nor empirically sound. We learn from history that a large-scale emigration or secession can never be a real option for most people in any mature political society. The logical possibility of his view is only a theoretical source of utopianism. More profoundly, people always think of the land on which they are living generation by generation as theirs, rather than as their government's. Government is bound to maintain their holding of their land, even though they are free to leave it and some of them actually did.
Finally, voluntarism appears as a narrow understanding of the political individual. Walzer points out, "A theory of consent and obligation must include a view of the consenting self: the person who incurs and carries the obligation has to be and continue to be a person of a certain sort, an autonomous and responsible man or woman". For the classical voluntarists like Hobbes and Locke, what's guiding the consenting individuals is the single goal of obtaining the convenience in protecting life or rights. The only collective goal is the protection of life or liberty. Beside this they are detached from each other. Individual preferences and capacities of rationality drive them. However, to say that political legitimacy and the correlated political obligation are derived from individual consents is to exaggerate the moral significance of individual consent. To insist on actual consent is to deny the state the right to enforce judgements over its citizens. "Every individual is a child of his time". A man cannot grow up without the nurture of objective reasons and values. There would be no objective reasons and values

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without the constant interaction between people within a stable society.

Voluntarists like Simmons claim that consent theory respects the individual's freedom of choice of the way of living. But it is not difficult to argue that a way of living can be justified simply by its being freely chosen. It is also unintelligible to say that choosing a way of life is a distinctive act and happens at particular moment. There may not be, in most cases, any datable acts that indicate an individual's consent to his way of living. To be committed to a way of life is to accept particular values, to observe a particular pattern of conduct, and more fundamentally, to live with one's significant people. This is a gradual process with subtle phenomenological structure. It is hopeless to describe this process as a set of distinctive acts of consent.

We can even argue for the non-consent-based political legitimacy from a perfectionist perspective. Nagel argues that, even if the state may make mistakes in judging what is genuinely good for its citizens, the perfectionist effort is still legitimate, "because the promotion of what
is excellent is, under that description, a valid collective goal even for an involuntary association like the state."^{24}

So far, I have completed most of my criticisms of political voluntarism. The basic idea is that, (1), voluntarism is a superficial theory, for its best defense depends on a proper view of promise, which voluntarists are not able to coherently work out; (2), voluntarism appears to be too narrow a theory of human obligations, for it fails to capture a wide range of moral practices. Moreover, voluntarism also contains several assumptions that turn out to be misunderstandings of human affairs ranging from the self, morality, to politics.

If my arguments are sound, the voluntarist project of justifying political obligation is doomed. If there are any political obligations at all, we must to seek for an account from a different perspective.

The voluntarist account, as one of its remarkable proponents, Simmons, admits, is eventually to be a denial

of political obligations, on empirical grounds. This account is different from the traditional anarchism based on a conceptual claim that there can be no morally legitimate states.

In the next chapter, I will switch to some still surviving accounts of political obligation in contemporary political philosophy. They are basically non-voluntarist. It is interesting to see what they can offer in order to save the notion of political obligation, and I am ready to look at them.

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Chapter 4 Special Ties

Political obligation, if it exists, is owed to a definite group of persons, rather than to all persons. In this sense political obligations are special or particular obligations. A theory of political obligation must take this feature into account. Many theorists start to account for political obligation with an observation of which Simmons has a good description:

"It is at least clear that political obligation is supposed to be a moral requirement to act in certain ways in matters political. Many people feel, I think that, that they are tied in a special way to their government, not just by "bonds of affection", but by moral bonds. While they complain loudly and often, and not without justification, of the shortcomings of government, they feel that they are nonetheless bound to support their country's political institutions and to obey its laws, in ways that they are not bound to the corresponding institutions of other countries. ...It seems to me that the problem of political obligation is precisely the problem of explaining
the nature and scope of such special moral bonds (if any such exist), and of determining who, if anyone, is constrained by them.\textsuperscript{1}

Two short comments, one negative and one positive, can be made on this observation. First, it seems to me that it is a wrong starting point. For it consists in a conception of political obligation that treats political obligation in a narrow sense to the effect that such an obligation lies in the relationship of the citizens only to their government. I argued in the last chapter that people are first bound to each other as citizens, or as members of a political society, and secondarily to the government. There is a plain fact that government, officials, or even the laws may change, but the country will and should persist irrespective of any of these changes. Government is at most one of people's moral concerns, and can by no means be the ultimate one. People may support the government if it serves as a just, effective administrative system, and is to the advantages of the society as a whole. The feeling described by Simmons, that citizens are bound to support their country's political institutions is parasitic to the

\textsuperscript{1} Simmons, A.J. Moral Principles and Political obligations, Princeton University Press, 1979, p.2-3.
deeper and more solid feeling that they are bound to maintain their common life.

Second, the observation includes a right view of political obligations as special ties, a view that political obligations bind a group of people to their country, and not to any other countries. This constitutes the so-called "particularity requirement" any account has to meet.

However, this chapter will argue that the narrow understanding will hinder one from producing an account that meets the particularity requirement. On the narrow conception of political obligation, the problem under discussion is a problem of explaining the moral basis of citizens' complying with their government. What's the basis? Here let me list some answers provides by theorists motivated by the narrow conception:

(1), because citizens have promised to comply with the government;

(2), because citizens owe the government an obligation of gratitude for benefits received from the government;

(3), because citizens have a natural duty to support their government which acts justly or nearly justly.

I have criticized the first answer at length in the preceding chapters. Though I think the voluntarist answer
is basically wrong, it has a natural virtue in respect of the particularity requirement. There are no difficulties in the voluntarist account of the special ties: people owe obligations only to the government, to which they have consented, not to any other governments.

In the following sections, I will mainly explore the other two answers, which are called "the gratitude account" and "the natural duty account", respectively. They are both non-voluntarist in character. One of their advantages over the voluntarist approach is that they may account for the vast majority's political obligation if the moral principles they rely on bind people at all.

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Philosophical accounts of political obligation in terms of gratitude have never received popularity in the history of inquiries into the problem of political obligation. Discussions of the gratitude account in contemporary literature are either for the sake of completeness, or for the sake of criticisms, or both. However, this account has acquired some developments in
recent years. I shall discuss both the standard and the updated versions of the gratitude account.

The first explicit version of the gratitude account might be an argument in Plato's *Crito*, which relies on analogy between the obligation one owed to one's parents and the obligation to the state, both springing from gratitude for benefits one receives.² There are also some other gratitude accounts that don't appeal to this analogy. For example, Ross, by treating the obligation of gratitude as a *prima facie* obligation owed to whoever benefits us, concludes that "the duty of obeying the laws of one's country arise partly (as Socrates contends in the *Crito*) from the duty of gratitude for the benefits one has received from it."³ Most of these ideas are fragmentary and underdeveloped. But their rationale seems to be well captured by Simmons:

"The gratitude account of political obligation maintains that our receipt of the benefits of our government binds us to repay the government because of considerations of gratitude. It maintains further that this

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repayment consists in supporting the government, part of which support consists in obeying the law."\(^4\)

The basic idea, then, can be formulated as the following argument:

(1) Every one who receives benefits from X has an obligation to requite or make a suitable return to X. (The principle of requital)

(2) Every citizen has received benefits from the government.

(3) Every citizen has an obligation to make a suitable return to the government.

(4) Compliance with the government is a suitable return.

(5) Every citizen has an obligation to comply with the government.\(^5\)

This argument is subject to objections from top to bottom. The most severe objections focus on steps 1 and 4. First, the applications of the principle of requital are very limited by circumstances. Not all benefits can necessarily generate an obligation of gratitude on the side of the beneficiary. For example, many people don’t think it

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\(^4\) Simmons, A.J., 1979, p.183.

\(^5\) I owe this formulation to A.D.M. Walker, see “Political Obligations and the Argument from the Gratitude”, Philosophy and Public Affairs, summer 1988, p.194.
plausible that the mere passive acceptance of benefits does confer an obligation for the recipient to requite the benefactor. Simmons lists five necessary conditions for the obligation of requital, the first three of which, for our purpose, are: (1), the benefit is achieved through significant effort or sacrifice; (2), the benefit is not the result of unintentional, involuntary, or disqualifying reason-based acts; (3), the benefit is not unjustifiably against the beneficiary's will. If the principle of requital can only be applied in the way Simmons suggests, then step 2 in the argument doesn’t seem to hold: there will be little sense in which we can assert that every citizen has an obligation to requite the government. It is not only unnatural, but also most the time wrong, to say that the government intentionally benefits its citizens through significant effort or sacrifices. The reasons are as follows. First, the sources of the so-called "significant efforts or sacrifices" are all from the people. Second, it is the basic function of government to provide citizens with the services in question, and we are not going to say that the government loses anything by providing the services. Third, even a bare government that is tyrannical, exploitative, and depressive could still

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6 Simmons, A. J., 1979, p.178.
provide some services for its citizens through the relevant "effort and sacrifices". Does this kind of "benefit" generate gratitude?

Even if we grant the first three steps and get to step 3, step 4 is too weak, from a logical point of view, to render us to the conclusion, step 5. For, if there are some kinds of "suitable return" other than compliance with the government, the conclusion will be insecure. Then step 4 must be modified to a stronger premise that compliance with the government is the uniquely suitable return.7 However, step 4 is itself not a very secure position. How could we commit ourselves to a point much stronger than it without justification?

Therefore, the gratitude account above given is confronted with the following sequential difficulties. First, the sense in which all or almost all citizens have received benefits from the government and hence the sense in which they owe government an obligation of gratitude are both unclear. Second, it is questionable that the government is the proper object of gratitude if any. Third, even if the government deserves the gratitude in question, we are not told how it gives rise to the same kind of obligation as the political obligation to comply with the
command of the government. In summary, these difficulties are concerned with the source, the object, and the binding force of the obligation of gratitude.

It must be noted that the source, the object, and the binding force are related. Let's consider the source of the gratitude obligation first. The question bothering us is, in what sense has every citizen received benefit from the government? It might be claimed that government benefits citizens through a wide range of activities: protections of safety and property, public services, national defense, etc. But citizens through taxes support all of the activities, though government plays an important role in converting these financial sources into public services. On the classical model of government, especially like Locke's, people are entitled to the essential governmental services that are the function per se of government. It is hard to locate the source of the obligation of gratitude under discussion from this perspective. Second, there are doubts about the possibility of institutions being the object to which gratitude goes. Simmons, by restricting gratitude to the interpersonal level, argues that gratitude to

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8 See Simmons, A. J., 1979, p.189.
institutions and even to groups of people is inconceivable.\textsuperscript{9} Third, political obligations usually pose onerous burdens like military services, substantive taxation on citizens. The obligation of gratitude is generally too weak to meet the requirements of political obligations.\textsuperscript{10} My own remark is that gratitude is basically an individual feeling, subject to personal judgement on the transaction between particular individuals and the government in different contexts. In the ordinary case one cannot be forced to have an obligation of gratitude and to be committed to a variety of activities specified by the obligation of gratitude without one's own recognition of them. If so, the gratitude account suffers from a defect of allowing excessive subjectivism about whether and how much the individuals owe the government. For one may simply deny one's obligation by saying that one is not grateful. People's feelings of and attitudes to their government are complex. They may appreciate the basically governmental functioning, but they may be hostile to the dissatisfaction of social stratification, economic inequality, high rate of crime, moral failings of the society, and so forth. The gratitude in question may not be the net response or the ultimate

\textsuperscript{9} Simmons, A. J., 1979, p.188.
attitude to the government among citizens in general when all of these personal feelings are tallied up.

To meet these objections, Walker recently advanced a new version of the gratitude account with a concession that the original one misrepresents the essential feature of the obligation of gratitude. Walker's account contains two modifications to the original one, the abandonment of the principle of requital and an extended understanding of the obligation of gratitude. For Walker, the new account does not depend on the principle of requital. He argues that the obligation of gratitude does not arise out of the reaction to benefits provided by government, but out of a set of attitudes to one's benefactor as the grateful response. Such attitudes play significant role in constraining the recipient's conduct. The recipient must, on the one hand, perform declarative actions that not only show that he is grateful, but also make clear to his benefactor that he is grateful, and on the other hand, not act against the benefactor's interests. The second requirement is substantial rather than symbolic, because it cannot be met once and for all. It is this second requirement that Walker

thinks is the ground of political obligation. Here is his argument:

"(1) The person who benefits from X has an obligation of gratitude not to act contrary to X's interests.
(2) Every citizen has received benefits from the state.
(3) Every citizen has an obligation of gratitude not to act in ways that are contrary to the state's interests.
(4) Noncompliance with the law is contrary to the state's interest.
(5) Every citizen has an obligation to comply with the law."\textsuperscript{11}

This new argument, though containing obvious improvements over the original one, still leaves us a bunch of difficulties. There seems, at first sight, to be a minor problem. Walker does not say whether, to fulfill the obligation of gratitude, one must meet both requirements. Ordinary experience indicates that in many circumstances the declarative "thanks" may be an appropriate response to some benefits from others. I assume that Walker thinks the declarative actions are insufficient in the context of political obligation.

\textsuperscript{11} Walker, A. D. M., 1988, p.205.
Let me call the first step "the principle of gratitude". Intuitively, the principle of gratitude only holds in certain circumstances. For example, I don’t think I have an obligation of gratitude to a robber who spares me part of the robbed money. Take a closer example, do the privileged individuals in a hierarchical society have an obligation of gratitude to the government one of whose function is to preserve the interests of those privileged? This raises a doubt about the principle of gratitude when it applies to the relationship between citizens and government. If we make a qualification of the principle by instantiating “X” as “the government”, we get the following assertion: The citizen who benefits from the government has an obligation not to act contrary to the government’s interests. Is it self-evident? Surely not. At least this assertion gives rise to the unanswered question we met above about the possibility of government being the proper object of gratitude. To this question, Walker has an answer ready. This is his another improvement over the original account.

Walker proposes a wider understanding of political obligation and the obligation of gratitude:

"In speaking of political obligation as an obligation of gratitude owed to the state, I mean that the obligation
is owed to one's fellow citizens collectively. ... [T]he state is not to be identified with the government. Acceptance of the argument from gratitude does not commit us to viewing political obligation, in the manner of Socrates, as essentially a relationship between "rulers" and their subjects. The obligation is owed by citizens to their fellow citizens collectively rather than to the government."¹²

On this view, the obligation of gratitude is an obligation owed by citizens to the whole community of which they are members. Though this view include an element that is completely endorsed by me throughout the whole essay, i.e., political obligation is owed by citizens to their fellow citizens, I am not sure that it is helpful to Walker's account.

The gratitude account under the traditional narrow understanding of political obligation as the relationship between the ruling and the ruled has trouble meeting the particularity requirement. A citizen of one country may owe an obligation of gratitude to another government if, for example, it helps him in need. But this obligation is not regarded as political. Walker rightly conceives political obligation as a civic bond in saying that his account

"suggests a view of political communities whose members are, or should be, bound to one another by ties of good will and respect". On this account, we owe an obligation to our community not to act contrary to its interests. Since noncompliance with its law is against its interests, we have an obligation to comply its laws. But the same kind of question remains with regard to the relation between a person and a community foreign to him. I am Chinese and temporarily studying in the United States. There is a strong sense in which I benefit from the United States. But, on Walker's view, do I have political obligation to the US, though I may owe an obligation of gratitude to the US?

The difficulty with Walker's account is that the obligation of gratitude, in so far as it is generated by general moral principle, is not able to establish the special tie. Walker is aware that a community and its members are bound to each other by tie of goodwill and respect. But goodwill and respect may be understood as the universal ties through humanity. The best interpretation of Walker's view might be that goodwill and respect becomes more vivid and stronger between members of a community through the feeling of mutual gratitude. In other words,

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the community ties of goodwill and respect are based on
gratitude. But we cannot say that. For gratitude itself is
related to benefits one receives, and the special tie does
not arise from benefits one receives from another state.
What Walker needs is something like "special gratitude",
gratitude owed by one to his fellow community members. But
this is definitely hopeless; for gratitude is inherently
attached to benefits, which is a neutral and
undiscriminating term to the effect that anyone may receive
and give them.

On the contrary, as Horton points out, a feeling of
(special) gratitude is the consequence, not the foundation,
of the communal bond.\textsuperscript{14} The tighter the bond, the stronger
the feeling. If a community is bound by ties of more vivid
and stronger goodwill and respect among members, we'd
better think that gratitude is an proper response to these
ties. This is suggesting that gratitude cannot be the
ground of political obligation. Now let's move to another
project of defending political obligation in terms of the
natural duty of justice.

The natural duties account of political obligation owes its existence to Rawls. In *A Theory of Justice*, Rawls's major concern is to develop the principle of justice for the basic structure of society. While there are political principles for the evaluation of social and political institutions, Rawls also discusses moral principles that apply to individuals. Discussions of these moral principles are gathered under the titles of "the principle of fairness" and of "the natural duties". Rawls makes a strict distinction between obligations and duties. On this distinction, all obligations are derived from the principle of fairness that binds individuals to do their part as defined by the rules of an institution under two conditions, namely, the justice of the institution and the voluntary acceptance of benefits from the arrangements of the institution. Obligations are distinct from natural duties in at least three ways. First, natural duties "apply to us without regard to our voluntary acts". Second, natural duties have the universalistic feature, namely, that they are owed by everyone to everyone else as equal.

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moral person, irrespective of their institutional relationships. Third, their applications don't depend on circumstances, because they hold unconditionally. Examples of the natural duties are the duty of mutual aid or minimal altruism, the duty not to harm or injure others, etc.

Rawls's theory of natural duties is brief and short of detailed expositions and justifications. However, these shortcomings will not bother us if we follow the basic line of thought throughout his whole book. That is, any moral principle must be what rational representative individuals would choose in the original position. Would the Rawlsian contractors choose the principles of natural duties? The answer is not difficult to figure out. The Rawlsian selves are those motivated more by rational self-interest than by benevolence. Positive natural duties only require individuals to help others when the cost is very low, while negative natural duties just require that individuals refrain from doing harm to others. In a society in which these duties were observed, the benefit individuals receive from their observance would outweigh the cost they took. Rational individuals in the original position should

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16 I follow Klosko's exposition of Rawls in the following discussion of the derivation of natural duties from the original position. See Klosko, "Political Obligations and
recognize this fact, and the principles of natural duties are thus established through this inference.

The natural duties we have so far touched and defended in the Rawlsean way are duties that are owed by person to person. Rawls also observes a kind of natural duty that is owed by individuals to political institutions. After defining natural duties between persons, Rawls continues to say:

"From the standpoint of justice as fairness, a fundamental natural duty is the duty of justice. This duty requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves. Thus if the basic structure of society is just, or as just as it is reasonable to expect in the circumstances, everyone has a natural duty to do his part in the existing scheme. Each is bound to these institutions independent of his voluntary acts, performative or otherwise."\(^17\)

Though containing a residual mention of "everyone has a natural duty to do his part" in the light of the principle of fairness, the passage has a central idea that

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is quite unique. It is different from theories of acquired obligation. First, Rawls rejects the consent theory because he thinks mere consent or promise cannot give rise to obligations. I have discussed this point in the last chapter. Second, Rawls doesn’t think the duty to support and further just institutions can be accounted for in terms of the principle of fairness. In a later chapter of *A Theory of Justice*, he argues that,

"Citizens would not be bound to even a just constitution unless they have accepted and intend to continue to accept its benefits. Moreover, this acceptance must be in some appropriate sense voluntary. But what is this sense? It is difficult to find a plausible account in the case of the political system into which we are born and begin our lives."\(^{18}\)

Then, what appears is a brand new account of political obligation. It grounds the duty to support the laws and institutions of a just state, not in what we have said (promised, consented, pledged, etc.) or done (voluntarily accepted benefits), but in what we should do as moral persons.

\(^{17}\) Rawls, J., 1971, p.115.  
However, the status of the natural duty of justice (let me call it "the political duty" for brevity.) is far less clear than the other natural duties above mentioned. Rawls doesn’t present any account of the political duty by means of his idea of the original position. This might not be due to his neglect or the trivialness of the subject, but to a difficulty in reconciling an internal tension between the natural duties of mutual aid and the political duty to support just institutions through the apparatus of the original position. I will follow Klosko’s analysis to show that the political duty, if any, does not square with natural duties.\textsuperscript{19}

At first sight, there is an obvious difference with respect to the object to which the duties are owed. The natural duties to help others and not to harm or injure others are to the living human beings, but the political duty are to institutions. This gap may be bridged through a transformation. Rawls use "institutions" in a broad sense. Institutions may generally refer to the governing structure or the administrating system of a society. They are reducible to a group of persons who play roles defined by a rule of system in maintaining the social order. These

\textsuperscript{19} Klosko, G., "Political Obligation and the Natural Duties of Justice", Philosophy and Public Affairs, summer 1994,
persons are traditionally called "rulers". Then our political duty to support just institutions requires us to support and meet the requirements of these governors whose conduct is the realization of just institutions. To do this duty is to benefit others alike in the spirit of the natural duties. This exposition reveals that the natural duty account is another instance of the narrow understanding of political obligation, because "to support just institutions" is just a different expression of "to obey the governors of a just government" or to "comply with a just government".

However, the accommodation made above seems unable to bridge another gulf between natural duties and the political duty. In spite of the vagueness of what involves in supporting, furthering just institutions in Rawls's language, the political duty, for most countries, includes obeying laws, paying taxes, participate military services, etc. All of these activities are of high cost and onerous burdens. We have noticed that, because of the limits of benevolence of the Rawlsean individuals, the basic reason for willingly accepting the principles of natural duties in the original position is that one can benefit others without considerable cost and one can receive more benefits
than burdens on him if these duties are commonly honored in the society. The same sort of reasoning is hard to justify the political duty in question in terms of the hypothetical agreement in the original position. Then the political duty of justice is inconsistent with other natural duties in respect of the demand of their burdens, at least from the standpoint of the original position. Natural duties are generally weak, but the political duty is surprisingly strong. The point is that, the political duty of justice might not be strong enough to support or further just institutions, or if it were, it would no longer "natural" in the proper sense of "natural". What's the ground of such a substantially strong natural political duty of justice?

The possible answer has to be sought in Rawls's qualification "just institutions that exist and apply to us". Rawls has divided the duty into two parts. "First, we are to comply to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves." The second part of the duty seems to cope with the general feature of natural duties because it involves

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the "little costs to ourselves". This part of the political duty may include, for example, voting for some social arrangements in direct democracies, or for officials who are opt for particular policies in representative democracies. In so far as such activity does not cost too much, everyone has a duty to perform it.

Difficulties are concerned with the first part. According to it, we are bound to support just institutions that exist and apply to us. On a close reading, it is the conjunction of two features of an institution that guarantees our support, its justice and its applying to us. We are not bound to comply with all just institutions that exist, except those that apply to us. For the moment, let's regard institutions that apply to us as institutions under the jurisdiction of which we are living. Put it in traditional language, the natural duty of justice binds us to support our government if it is just or nearly just. Many critics believe there is a tension within this claim.

At the outset, the natural duty of justice binds us to promote whatever is justice. In this sense we may have a duty to support all existing institutions that are just. We have already noticed that such a duty is generally weak. We should read Rawls as maintaining that as regards institutions that apply to us, our duty to them will become
strong. Then, the duty is strong because the institutions at issue apply to us, no merely because they are just. However, if we admit this reading we may find that what matters here is not primarily the justice of the institutions, but their application to us! Take an analogy. One owes an obligation to help all other people, as well as an obligation to help one’s family members. The latter obligation is a stronger one than the former is. It is sensible to say that one owes this stronger obligation to one’s family members because the family relationship as an institution applies to one. But we will totally miss the point if we explain the stronger obligation in terms of the universalistic obligation to all. As Simmons remarks, “Is it really the justice of the institution that is important here? I think not. The reason why the application clause appears to be necessary to the duty of justice is simply that an institution’s applying to an individual in the ‘strong’ sense is, as Rawls must have seen, a necessary condition of his being bound to comply with and do his part in it.”\textsuperscript{22} If it is claimed that the natural duty of justice binds people only partially to their government that is just, this is only a redefinition of the natural duty of justice, and does not provide an explanation of why the

\textsuperscript{22} Simmons, A. J., 1979, p.153.
principle of the natural duty binds individuals to their institutions. As Dworkin points out, "That duty, however, does not provide a good explanation of legitimacy, because it does not tie political obligation sufficiently tightly to the particular community to which those who have the obligation belong; it does not show why Britons have any special duty to support the institutions of Britain."\(^\text{23}\)

Of course, nobody would deny that because most people were born into and are living in their society, supporting just institutions of the society might be the most feasible way for them to do the duty of justice. So, it seems that there is one sense in which all natural duties are owed by all to all, but another in which they are not. That is, one may owe a duty to support some particular just institutions because they are what one can directly support. Take the duty of minimal aid as an example. This duty requires you to help anyone else whom you can help with little cost. But such a general duty might become special or particular if there is a circumstance in which there is only one person you can help. In cases like this, you owe a duty only to this person. Similarly, you owe a particular duty to your country's just institutions just because they are within

the reach of your support. Could this special relationship establish a special tie between a person and his political society and make the natural duty account meet the particularity requirement? I doubt that it could, for the following reasons. First, the special relationship is a matter of physical location. It would follow from the above view that you would be freed from your duty to your country gain a duty to another country if, for example, you were traveling outside your country. On Rawls's view, in this case you even have a duty "to further just arrangements not yet established" in that country. But this is highly against our common sense. Second, the special relationship may particularize your duty, but cannot strengthen your duty. You may have a natural duty to help a particular person because at a give time he is the only one you can help. But this duty is still of minimal altruism, and nothing can promote it to a stronger one. We generally think that a citizen owes a stronger duty to his country's just institutions than to other countries', but nothing in the above view can account for this. You owe a stronger duty to some people or some things only when you are specially tied to them. The fact that you can easily support your country's just institutions does imply that you are required to support them more.
Recently, Waldron has argued that there is no disparity between natural duties and special ties within the natural duty account.\textsuperscript{24} His main idea is that the natural duty theory of political obligation can account for the special tie between an individual and his political institutions without collapsing into an acquired obligation account. What is interesting in Waldron’s efforts is his circumvention of a sense of “apply to”.

Unlike Rawls who argues for the principles of natural duty from the original position, Waldron simply claims that the natural duty of justice is a moral requirement that everyone pursue or promote a state of affairs in which justice is achieved. Such a state of affairs, according to Waldron, cannot be obtained without corresponding institutions that bring about what justice demands. If the “institutions” is used in a sense of modern government, Waldron rules out the anarchical position, which holds that an extensive government is unnecessary for maintaining justice (e.g., Nozick.). An institution may fail to bring about justice unless individuals to whom it applies accept the principles of justice and cooperate with the institution with regard to the demands of the principles.

\textsuperscript{24} Waldron, J. “Special Ties and Natural Duties”, Philosophy and Public Affairs, winter 1993, p.3-30.
Therefore, if an institution is fulfilling its function to carry out the demands of justice, each person to whom it applies is bound by his natural duty to support and comply with it.

Then, it is the application that establishes the special tie between an individual and an institution. How does an institution apply to an individual? Waldron invents a notion of the range-limited principle of justice, which provides a way to distinguish “insiders” from “outsiders”. “Substantially, an individual is within the range of a principle if it is part of the point and justification of the principle to deal with his conduct, claims, and interests along with those of any other persons it deals with.”

To make clear the range-limitedness of a principle, Waldron gives a “cute” example. Suppose Hobbes has five children and one cake. He chooses the following principle of distribution as the fair way to divide the cake for the children: “To each an equal amount of cake”. However, a neighbor’s child Calvin, a bystander of the event, interrupts the distributing by claiming that the principle also entitles him to an equal share of the cake. Hobbes explains that his principle cannot read as “To each and
every child in the world (or even in the neighborhood) an equal amount of cake", but as "To each of Hobbes's children an equal amount of cake". A principle of justice for a society is range-limited in exactly the same sense.

Let's extend the Hobbes example a little bit further and make the following analogy. Hobbes is like the government, and his children subjects of the government. (Let's also ignore the paternalist implication of the analogy) Suppose Hobbes's principle is just to his children. Then, on Waldron's theory, each of his children owes him a duty to comply with him. What if Hobbes's cake is robbed from another family or stolen in a supermarket by Hobbes? Do his children still have a moral duty to comply with him? We can imagine a robbery group or an underground organization or an aggressive state whose principles of distributive justice are firmly approved by its members. We are not inclined to say these members owe their organizations a natural duty of justice to support it. My question is one of the natural consequences of Waldron's limiting the range of the principle of justice. The justice of the institution is not merely a matter with regard to the distribution of social goods among individuals to whom it applies. Waldron may avoid this difficulty by adding

that the institution must be just to both insiders and outsiders of the institution, and then claim that it is the insiders that have a duty of justice to comply with the institution. But this can’t help. The reason is as follows.

Waldron attempts to establish the special tie by qualifying the general formulation of a principle of justice. It seems to him that it is the range-limited principle of justice that ties members of a society together (just as the principle “each of Hobbes’s children is entitled to an equal share of the cake” ties the children together as a community). This entirely perverts the order of things because it is based on the special tie that the range-limited principle is possible. What’s the ground in which the principle is to be limited? As to the case of Hobbes’s cake, the principle that limits the distribution of the cake to Hobbes’s children because there is already a family tie between them.

Special ties are formed through the socialization of a particular group of people. We are bound by natural duties to support institutions that give special expression of our interests and act in accord with general moral requirements. This is equal to a claim that what distinguishes our support of our just government from our support of other just governments is that our government
gives special considerations to our interests. And the basis of our compliance with our government lies in these special considerations. Then, other things being equal, it’s the special cares our government gives to us, that ground our stronger obligation.

Besides its internal tension, the whole picture of the natural duty account seems to me misleading. Because no institutions are perfectly just, the natural account is at most a characterization of ideal situations. It says very little about our political obligation in our actual lives. In the following, I will briefly outline the failure of the natural duty theory to account for the duty to comply with less than just or nearly just institutions, though I believe my above criticisms of Rawls and Waldron are sufficient to refute the natural duty approach to the problem of political obligation.

I believe that the duty to support less than just institutions exists, and is obviously part of political obligation. The natural duty account is too restrictive, simplistic and unrealistic in this sense. Rawls has a famous dictum: “Justice is the first virtue of social institutions, as truth is of systems of knowledge.”²⁶ Here, “justice” is used in a strict sense, referring to a matter
of distribution over primary social resources. Social institutions that are under guidance of principles of justice are designed for reconciling conflicting interests or promoting the welfare of (representative) individuals. This kind of political philosophy is based on a conception of morality that persons are free to choose their life plan and pursue their goods. The natural duty of justice is preferable because cooperation and compliance with just institutions will be to the advantage of all. In other words, the duty of justice is based on a reasonable exchange between benefits and burdens for citizens under just circumstances. Then, it seems obvious that such a duty will disappear in unjust circumstances. This is why Rawls emphasizes that people under unjust institutions owe no compliance. However, the distribution of benefits and burdens is only one aspect of the subject matter of politics. People have much broader concerns. The complexity of political life is embedded in the fact that special ties even obtain between individuals and their political community with unjust institutions. The mutual attachment between members of a society is relatively independent of the way their government acts, though the way government acts causes complicated responses in them. No people are or

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26 Rawls, J., 1971, p.3
have been living with completely just institutions. Many peoples are even under institutions that are so unjust that one cannot find a decent and affordable way to do his duty in assisting the establishment of new institutions. Their compliance with their institutions has a complex or even paradoxical basis. They believe that in circumstances in which any alternative to compliance would do more harms to or even destroy their society, they'd better make the choice in favor of their whole society. This is only partly similar to the Hobbesian inference. Hobbesian compliance is based on a psychological individualism. Disobedience for a Hobbesian individual causes worse consequence to those who disobeyed than obedience does. But my argument for obedience to less than just institutions doesn’t appeal to Hobbes’s individualism, but to a public intention to maintain the collective values of the whole society. The idea is that, even if the institution is not as just as people expect, they are nonetheless bound to comply with it if this is the only sensible means to maintain their society. This duty, combined and compatible with another duty of disobedience, forms the core of political obligation. In other words, both obedience and disobedience are for the sake of the persistence and flourishing of the society, for people believe their country has to persist,
their culture and tradition have to extend to the future, etc. It is this kind of special tie that unifies their double political sentiment to the institutions that apply to them and to their society.

Some may argue that the view above outlined derives political obligation from pragmatic or prudential considerations, and does not meet the requirement that a successful account provide moral reason for political obligation. I would like to say that morality is not a self-enclosed realm. Practical reasoning takes place in a complex web of human beliefs in which moral considerations and other kinds of consideration are adjacent to each other. At least, if one holds that moral reasons constitute a distinct realm that is totally independent of and detached from other kinds of human cognition, one can never answer the question "why be moral?" The similar questions hold for the natural duty account ("why be just?") and for the voluntarist account we have discussed in the last chapter ("why keep promises?"). All of these questions demand answers that reflect a theoretical unity and depth, and encompass, with regard to the problem of political obligation, a wide range of political relationships.
The main purpose of this chapter is to discuss and criticize two examples of the narrow understanding of political obligation, the gratitude and the natural duty account. These two accounts are both non-voluntarist. While they make some improvements over the voluntarist one, they nonetheless suffer from the inability to account for special ties between individuals and the political society in which they are members.

I have argued that it is the narrow understanding of political obligation as an obligation owed by citizens to the government behind these accounts, that makes them fail to capture the special ties. The reason is that the special ties are associated with membership in a society that is quite independent of the administrative system of the society. The point is that people are not primarily tied to their government. Their ties to the government are derivative from the initial ties holding between each individual and all other members of the society as a whole, which don’t exist between members of one society and other societies.

A more plausible account, then, should try to avoid the influence of the narrow understanding, and to overcome
the shortcomings of viewing citizens as standing in an adversary relationship with the government. Some theorists have advanced and defended an account that ground political obligation in the principle of fair play. The fair play account is not committed to the simplistic view of political obligation. It takes political communities as large-scale cooperative schemes, political obligation as the duty one owes to the scheme to do one's fairly shared part in so far as one receives benefits from the cooperation. The next chapter will be devoted to examinations of this account.
Chapter 5 Fair Play

In the preceding chapters, I looked at the voluntarist account, the gratitude account, and the natural duty account. I have argued that none of them has given satisfactory solution to the problem of political obligation. Though these accounts fail for different reasons, a common feature of them is that they are all committed to a narrow understanding of political obligation and political relationships, which as I have argued, prevents theorists from reaching a robust conception of political obligation.

This chapter will turn to examine the fair play or fairness account. On this account, political obligation is generated by the principle of fair play. This account is supposed to be significantly distinct from the accounts of consent, gratitude, and natural duty. It claims that we are bound to support our political institutions, not because we have promised to do this; nor because we owe gratitude to our government; nor because our government is just; but because we owe an obligation of fair play to contribute to
our political society on the ground that other members of
our community have done the same thing to make the
collective benefits available to each of the members of the
society.

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The first explicit, though primitive, formulation of
the fair play account may be due to Hart. Hart agrees with
the social contract theorists that political obligation
arises out of a mutual restriction between members of a
political society, but he denies that the moral source of
such a restriction, as social contract theorists conceived,
is individual promises. For Hart, there must be something
else which makes the mutual restriction morally legitimate.
And this is his principle of mutual restriction:

"When any number of persons conduct any joint
enterprise according to rules, and thus restrict their
liberty, those who have submitted to these restrictions
when required have a right to similar submission from those
who have benefited by their submission."

1 Hart, H.L.A., "Are There Any Natural Rights?"
Philosophical Review, 64(1955), p.185.
The right of those who have submitted entails a corresponding obligation on the part of those who have benefited. "The rules may provide that officials should have the authority to enforce obedience and make further rules... but the moral obligation to obey the rules in such circumstances is due to the co-operating members of the society, and they have the correlative moral right to obedience."(Ibid.) According to Hart, political obligation can be intelligible only when we apply this principle to the situation of political society, the most complex situation. Hart's main intention is not to advance a detailed account of political obligation, and his discussion of the subject matter we are concerned with is very brief.

Hart's idea was later endorsed and developed by Rawls. Following Hart, Rawls defines the principle of fair play with some further specifications:

"Suppose there is a mutually beneficial and just scheme of social cooperation, and that the advantages it yields can only be obtained if everyone, or nearly everyone, cooperates. Suppose further that cooperation requires a certain sacrifice from each person, or at least involves a certain restriction of his liberty. Suppose finally that the benefits produced by cooperation are, up
to a certain point, free: that is, the scheme of cooperation is unstable in the sense that if any one person knows that all (or nearly all) of the others will continue to do their part, he will still be able to share a gain from the scheme even if he does not do his part. Under these conditions a person who has accepted the benefits of the scheme is bound by a duty of fair play to do his part and not to take advantage of the free benefit by not cooperating.  

The principle Rawls stated contains several conditions that did not appear in Hart’s formulation, though the core idea remains unchanged. First, Rawls substitutes “mutually beneficial and just scheme of social cooperation” for Hart’s “joint enterprise”. While both the “scheme of social cooperation” and the “joint enterprise” are vague terms, Rawls’s statement contains important requirements that whatever the scheme or enterprise in question refers to, must be (1) just; and (2) mutually beneficial. This seems intuitively valid. A beneficial social scheme that distributes benefits and burdens unfairly does not generate obligations for its members to cooperate. This is because the basic rationale of the fair play principle is that in a

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cooperative scheme the distribution of burdens and benefits among members must be fairly shared. Suppose that A and B are jointly engaged in a project that produces 5 units of benefit. Suppose further that A and B have made, roughly speaking, equal contribution to the project, but A obtains 4 and B only 1. This kind of cooperation does not distribute benefits justly, and even if both A and B benefit from it, B will not be obligated to support it. The requirement that a cooperative scheme must be beneficial does not seem to need further justification. A scheme that benefits no one could hardly obligate people to cooperate.

Second, Rawls distinguishes cooperators and non-cooperators or free riders. It is characteristic of the Rawlsian cooperative scheme that its maintenance and its production of benefits do not require all individuals to cooperate. That means, non-cooperators can also receive benefits without doing their part.

Third, Rawls requires that nearly everyone must cooperate in order for the scheme to be beneficial. If a very large number of people are free riders or non-cooperators in a cooperative scheme, then we are less inclined to say that the whole scheme is a joint enterprise. The more the free riders, the less the sense in

1964, p.9-10.
which a scheme is called cooperative. But behind this linguistic issue, there is a deep thought. If a majority of members in a group does not cooperative, but still gain benefits, one may feel it little unfair to take the benefits without cooperating. Suppose A, B, C, and D are neighbors. One of them, say C, uses 30 minutes every day to clean the pathway shared by all of them. C’s work makes the environment of the small community look better, and in a strong sense benefits all of A, B, and D. But it is hard to say whether A, B, and D are obligated to share C’s work; and even if they are, it is also hard to say what the moral basis of this obligation is. One cannot say that the fair play principle obligates them to join with C. Rawls himself thinks that C's action is of heroism and self-sacrifice, but he remarks that “It is good to do these actions but it is not one’s duty or obligation.”\(^3\) The moral force of the principle of fair play consists in the fact that non-cooperators have to face the vast majority of cooperators who have been making sacrifice. I believe that this is why Rawls requires that nearly every one must cooperate in a social scheme. Some commentators point out that this

condition is unnecessarily strong.⁴ It is not difficult to find a scheme that is beneficial and in which not nearly all, but only a mere majority of members cooperate. Though this is a minor point, it should be remarked that for an obligation of fair play to be incurred, there must be at least a majority of people in the scheme who are cooperating.

Up to this point, we can summarize Hart and Rawls's idea as follows: one is obligated to do his part in a social cooperative scheme if

(1) The scheme exists;

(1) The scheme is aimed at producing benefits for those who cooperate;

(2) Cooperation usually means sacrifice or restriction of liberty;

(3) The majority of individuals have cooperated, and this makes (1) possible;

(4) One could receive benefits from the scheme even without one's cooperating;

(5) One has received benefits from the scheme.

When we apply this idea to the problem of political obligation, we will have the following inference:

(1) The political society is regarded as a mutually beneficial cooperative scheme;

(2) Citizens (participants) receive benefits (public goods like national security, protection by law, markets, etc.) from the political arrangements of the political society;

(3) They have an obligation of fair play to do their fairly shared part, or to put it more precisely, to obey the laws in support of the social institutions in so far as they operate justly or nearly justly.

Such an inference constitutes the core of the fair play account of political obligation. An important advantage of this account, in comparison with voluntarist theories, is that, if it works, it can provide a general justification of political obligation. I have shown in chapter 2 that the voluntarist account can at most cover very few citizens' obligation. But the fair play account is able to reveal the generality of political obligation: Since almost all of us have received benefits we are bound by the principle. Simmons illuminates this feature of the fair play account in the following passage:

"No deliberate undertaking is necessary to become obligated under the principle of fair play. One can become bound without trying to and without knowing that one is
performing an act which generates an obligation. Since mere acceptance of benefits within the right context generates the obligation, one who accepts benefits within the right context can become bound unknowingly. This is an important difference from consent theory's account, which stressed the necessity of a deliberate undertaking."\(^5\)

What the fair play account implies is that receiving benefits in the right context generates obligations. An obligation rightly generated by the principle of fairness is morally binding irrespective of one's voluntary undertakings. It should also be noted that the fair play account is distinct from the natural duty and the gratitude accounts, though notions like just institutions and benefits play important part in the fair play account. For Rawls, the justice and the beneficial character of the social scheme in question provide necessary conditions under which the principle of fair play is to be applicable. It is neither the justice of nor the benefits from the social scheme that generate the obligation under discussion. The duty to promote whatever is just is one thing; the duty to be fair to other individuals who have made efforts to maintain the beneficial scheme is another.

Another important feature of the fair play account has been already mentioned. That is, it does not treat political obligation as primarily an obligation owed by citizens to government. As Hart and Rawls clearly stated, the obligation is correlated to a right of those who sacrifice their liberty in favor of the cooperative scheme to a similar sacrifice by those who benefit from the sacrifice of the former. The obligation of fair play lies in a mutual restriction among members of a cooperative scheme with regard to both the enjoyment of its benefits and acceptance of burdens. In *A Theory of Justice*, Rawls almost repeats Hart's idea, "The main idea is that when a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission."\(^6\) One's obligation to the government is at most parasitic on the obligation of one owes to his fellow citizens, because the function of government entirely relies on submission of those who restrict their liberty. In this sense, "the benefits of government" literally refers to benefits created by one's

\(^6\) Rawls, J., 1971, p.112.
fellow citizens through their submission to the government. This treatment of the relationship between citizens and government is more comprehensible than the gratitude account.

3

Strictly speaking, the fair play account is built on two steps. The first step is to establish a general moral principle of fair play, and the second is to apply this principle to the political context. A successful account of political obligation must show that these two steps are valid.

I will consider two typical objections to the fair play account of political obligation. One is, foreseeably, from Nozick; another is, a little bit surprisingly, by Rawls himself. Interestingly, though these two objections are significantly distinct, they are both from the voluntarist perspective. Nozick's objection is direct. It is based on an argument that denies the validity of the principle of fair play as a moral principle. Rawls's is that, though the principle of fair play (later in his A Theory of Justice, he uses the term "the principle of
fairness”) is a fundamental moral principle, political society is not the proper context for the principle to generate general obligations.

Nozick gives a series of counterexamples to the principle of fairness. In one of them, Nozick says, “The principle of fairness, as we stated it following Hart and Rawls, is objectionable and unacceptable. Suppose some of the people in your neighborhood (there are 364 other adults) have found a public address system and decide to institute a system of public entertainment. They post a list of names, one for each day, you among them. On his assigned day (one can easily switch days) a person is to run the public address system, play records over it, give news bulletins, tell amusing stories he has heard, and so on. After 138 days on which each person has done his part, your day arrives. Are you obligated to take your turn? You have benefited from it, occasionally opening your windows to listen, enjoy some music or chuckling at someone’s funny story. The other people have put themselves out. But must you answer the call when it is your turn to do so? As it stands, surely not. Though you benefit from your arrangement, you may know all along that 364 days of
entertainment supplied by others will not be worth your giving up one day."^7

Nozick's argument has been widely invoked as a serious objection to the Hart-Rawlsian principle. Nozick's conclusion is clear, i.e., that the person in the PA case has no such duty to take his turn, but Nozick's reason is not quite clear. It allows for at least two understandings. The first as indicated by the last sentence quoted, is that the person might think the benefit he received is not worth his giving up one day. But to say this does not seem to deny the principle of fairness. Does the person have a duty to contribute, if he thinks that it is worth his giving up (even more than) one day because he enjoyed the public addressing system very much, listening to the music and jokes provided by others every day even though he was not among those who first instituted the entertainment project? Even such a person could still say that the benefit he received, though significantly large, is not worth his giving up one day. Though, on the one hand, a scheme cannot claim a full obligation on one who was only slightly benefited, one cannot, on the other simply deny his obligation by his purely private judgment that what he got

is not worth his burden. A scheme might benefit individuals involved to different degrees. The Hart-Rawls principle may be reformulated as this. In the right context, one is obligated to do his part, which fits the benefit he has received. Here "fit" might be ambiguous, because it might be hard to determine how much one should owe to the scheme with regard to the benefit he received. This problem should not bother us for the moment, because for our purpose, we are only concerned with the ground, not the content, of the obligation. Anyway, the principle of fairness does not imply that anyone who has benefited from the cooperation is required to do a part that is equal to other cooperators'. In Nozick's example, since the person, as Nozick told us, only "occasionally" enjoyed the benefit, there is nothing wrong in his thinking that the benefit is not worth his giving up one day. Maybe, it is worth his giving up one hour! So, on this revised principle of fair play, one is not obligated to do as much as others did if one does not fully enjoy the benefit. On this reading, Nozick's example does not shake the principle of fairness.

Perhaps, what Nozick wants to show by his example is something else. The reason why the person has no such duty, for Nozick, is that the benefit is unsolicited. In his PA example, the person might just receive benefits passively.
If the person did not intentionally choose to accept benefits, it is not suitable to claim his reciprocal payment by bestowing benefits on him. On the voluntarist principle, one need not be responsible for what one does not choose to accept. The PA benefits are unavoidable in the sense that it is of immense costs to reject them: You have to keep your windows closed during all the time the PA system is running in order to reject the benefits. These kinds of benefits are usually called "public goods" or "open goods". They go to benefit you no matter whether you want them or not. As Arneson points out, "one cannot voluntarily accept a good one cannot voluntarily reject."\(^8\)

In such a case, what's the sense in which the benefits that cannot be voluntarily accepted generate obligations on the part of the recipients? It is from this angle that Nozick thinks the principle of fairness is unacceptable. Can we answer Nozick's objection by further restating the principle of fair play?

Perhaps we need to distinguish accepting benefits from merely receiving benefits. The former is an intentional act of enjoying benefits with the understanding of their costs, which is nearly a voluntary act, while the latter is just

like being hit by an apple. By this distinction, the principle of fair play only applies to those who have accepted benefits. It says that it is unfair for those who accept benefits to refuse to take burdens.

However, if the principle of fair play is restated in this way, we need to find a sense in which citizens accept benefits from the state. Here comes the second objection. It is Rawls's abandonment of his early project of justifying political obligation in terms of the principle of fair play. In *A Theory of Justice*, Rawls writes,

"Citizens would not be bound to even a just constitution unless they have accepted and intend to continue to accept its benefits. Moreover this acceptance must be in some appropriate sense voluntary. But what is this sense? It is difficult to find a plausible account in the case of the political system into which we are born and begin our lives."^9

It seems to Rawls that it is the involuntary feature of the political society that prevents the principle of fairness from generating political obligation, for one of the two conditions under which the principle binds individuals is that individuals have voluntarily accepted advantages from the political institution. This voluntarist commitment
leads Rawls to a skeptical conclusion: "There is, I believe, no political obligation, strictly, for citizens generally."\(^9\)

Rawls's position is astonishing. It stands directly against the possibility that political obligation can be grounded on the principle of fairness.

Some theorists try to answer Rawls's objection by reformulating the principle of fairness. I will briefly mention an argument developed by Klosko and Arneson. This argument relies on an analysis and classification of the goods or benefits involved in the principle of fairness. Klosko argues that the principle of fairness is able to impose obligations on recipients to contribute to a cooperative scheme under three conditions: the goods provided must be (1) worth the recipients' effort in providing them, (2) "presumptively beneficial", and (3) have benefits and burdens that are fairly distributed.\(^11\)

What interests us for our discussion is (1) and (2), and what needs explaining is (2). Klosko is aware that the notion of presumptively beneficial goods is vague and difficult. He explains it along the line of Rawls's primary

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goods, things every man is presumed to want because they are necessary for an acceptable life. According to Klosko, public goods are presumptively beneficial because one benefits from their receipt more or less regardless of his behavior toward them. Arneson has a similar notion of pure public goods. Instances of these goods are national security, air pollution control, and protection by rule of law, etc. Though they use different terms, they reach a similar conclusion. As Arneson states it, the conclusion is that "Where pure public goods are supplied, voluntary acceptance of benefits is impossible and so unnecessary to generate obligations according to the principle of fairness. Mere receipt of benefits may suffice to obligate."  

Whether a scheme is beneficial and whether the benefit is worth the contribution are both subject to subjective factors. How could Arneson and Klosko answer this question: "Do I have an obligation of fairness if I don't think I benefit or benefit significantly from the scheme, or if I don't think the benefit I received is worth my burden of contribution?"

Klosko does have an answer. Let's see how to judge whether a scheme is beneficial to an individual. Klosko

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remarks that if a scheme members wish to impose an obligation to cooperate on an individual because they supply him with a certain presumptive public goods, "they must draw up a description of the characteristics that an individual must have in order to benefit sufficiently from the good and explain why individuals with these qualities benefits to the requisite extent". In the case of public goods like law and order, since individuals are presumed to value their life and they are not by themselves immune to sufferings caused by others, the goods by law and order are obviously beneficial to them. This is inherently a Hobbesian point. The benchmark against which the law and order is beneficial is the absence of them. However, Klosko's explanation of the benefiting character of law and order in terms of the Hobbesian point shows either too much or too little; too much because any kind of law and order is presumptively beneficial, too little because combining with the requirement of the justice of law, only "just" laws are beneficial. On Klosko's explanation, living in a political society and receiving benefits become one and the same thing, since everyone was born into his political society and any political society has its laws. If so, on what criteria can we say an individual benefits from the

state? Does the law equally presumptively benefit Bill Gates and, say, a homeless wandering about Seattle? Or Does the latter benefit from the law at all? Furthermore, if one thinks that the state is just an instrument of class struggle or a tool of class exploitation, in which sense is it a mutually beneficial scheme? If these questions above make sense at all, it is not so obvious that political society is a mutually beneficial social cooperative scheme. We lack a neutral way to judge whether a scheme is beneficial because there are too many baselines we can draw, with which the scheme is to be compared.¹⁴

Klosko’s answer to the second question, the question of whether the benefit is worth the burden, is also problematic. Klosko’s example is a scheme that provides national defense. National defense demands individuals to provide military service at risk to their life. The problem is that, though not all soldiers are very likely to be killed, some of them are and hence the benefits they receive would be outweighed by their cost. On the principle of fairness, they don’t have an obligation to serve. Klosko’s response is that though they will take the risk of life, this is less than they would face if the national

defense were not provided. As Klosko admits, the claim that national security is worth their taking risk of life holds only if the expected risk of like in defense for each individual is less than if national defense were not provided. Unfortunately, Klosko just simply assumes that this condition is clearly met in many common cases.\footnote{Klosko, G., 1992, p.55.} I fail to see why this is clear. From a macro-perspective, in many cases, foreigners invade a nation, not for the sake of killing its people, but to seize its land and resources, to enslave its people, and even to spread religions or ideologies. It might be the case that less people would be killed if national defense were not provided than if provided. From a micro-perspective, soldiers would be less likely to be killed if he escaped from the field or if he surrendered than if he continued to resist invaders. An individual might even say, "if Canadians invade and occupy Seattle, I will lose nothing: I will be still selling my labor as I have always been, but Bill Gates will lost his Microsoft empire. Why do I have an obligation to risk my life to resist them?" From the standpoint of the fairness principle as defended by Klosko, is there anything wrong in these words? I think no. Klosko's principle is unlikely to explain why an individual has an obligation to risk his
life even though others have risked their life. An individual may think like this, "though some people will be killed if the nation is occupied, I may not be necessarily among them. The chance that I am killed in my military service may be greater than if I were not in the army."

Unless it can be shown that the best chance for each individual to survive in the case of foreign invasion is to fight with foreigners, an individual cannot be obligated to risk his life. However, there is no obvious causal chain between national defeat and individual death. Even during the most severe World War II, most French and most Chinese remained alive. To resist is to risk more. This is even true of successful defense.

Furthermore, there are things worse than above for Klosko. The options for individuals in the case of national defense are not merely two: to serve or not. In many cases the best option for an individual, on the benefit-burden calculation, is to betray his country. This option will benefit an individual much more than any of the other two does. Once more, the existence of this third option suffices to refute Klosko's claim that the condition that the benefit one receives from national defense is worth one's cost to serve it is clearly met. The persuasion of the principle of fairness heavily appeals to a calculation
on the benefit and burden in question from each individual's standpoint. That is, the principle generates an obligation to cooperate on an individual if (1) the cooperation benefits the individual, (2) the benefit is worth the individual's burden of cooperating, and (3) the distribution of benefits and burdens among the cooperating individuals is fair. The problem is that, at least in the case of national defense, the third live option, i.e., betraying, will benefit the individual much more than national defense, which, though on Klosko's view, would be better for the individual than if national defense were not provided. If, and supposing that, individual is always motivated by what most benefits himself, what is his choice in the case of national defense, given these options?

The conclusion that can be drawn from the preceding paragraphs is that Klosko does not successfully show us that the two conditions are clearly met in his examples. First, Klosko does not provide a neutral way in which the benefits provided by law and order are to be measured. Second, Klosko fails to convince us that the benefit is worse the burden in the case of national defense. The reason why Klosko fails is worth pursuing.

Proponents of the fairness account understand political society as a joint venture. Such a joint venture
is no more than the mutual benefits of a particular group, which are eventually the aggregation of the benefits of all group members. Then, the production of benefits (especially material benefits like protection by law, pollution control, etc.) is the last standing of a joint venture. Mutual restriction on the group individuals is a feasible way to produce and maintain such benefits. The first problem is that different individuals value different things. An individual, say Bill Gates, might value national defense as a vital means for his protection; but an ordinary worker might not do so necessarily. Men living in a luxurious area may value air pollution control much more than those living in a slum district do. In this sense the venture, at least in the context of a political society, is not so joint as the theorists of the fairness account conceive. The second problem is, though participation in a joint venture is a feasible way to obtain the desired benefits, it is not the only way. Individuals may be free to quit from the joint venture whenever they find participation causing more burdens than benefits. Hobbes clearly states that there is no injustice in escaping from battle for personal survival.\textsuperscript{16} However, on this view, there

\textsuperscript{16} "When armies fight, there is, on one side or both, a running away; yet when they do it not out of treachery, but
is no difference between national soldiers and mercenary troops.

If a political society is to be understood as a joint venture, the joint-ness in question cannot be accounted for in terms of mutual material benefits. We must take community as a distinct value prior to the benefits at issue. People value national defense not merely because it is to the advantages of each other, but also because they believe the preservation of their society as a worthy endeavor. By national defense, they defend their communal past, present, and future. This is true in regards to pollution control and ecological protection.

By far my criticism of Klosko's argument is almost completed. In the following I will present a methodological remark on Klosko's defense of the fairness account.

Hart and Rawls treat the principle of fairness as a general moral principle, and think it can generate obligation of fair play in various appropriate contexts. Political society is one of these contexts for Hart and Rawls (Rawls later denies it). Along this line, political obligation is an instance of fair obligations. Nozick,

fear, they are not esteemed to do it unjustly, but dishonourably. For the same reason, to avoid battle is not injustice, but cowardice." See Hobbes, Leviathan, Hackett, 1994, p.143.
though he does not deal with the problem of political obligation, nonetheless doubts the plausibility of the principle of fairness. His strategy is to pick out some circumstances under which the principle cannot, he thinks, generate obligation. None of these circumstances is political. So, the implication of Nozick's argument to the problem of political obligation is not very clear, because it might be possible that the validity of the principle of fairness is subject to context. At this stage, the problem of political obligation for Nozick is an open question. But if we look at Nozick's voluntarist tendency, it is not hard to see that he will deny that the principle of fairness generates political obligation. (Rawls later comes to the same conclusion in *A Theory of Justice*.)

To refute Nozick, one may either defend the principle of fairness as a generally true principle that of course is applicable to the political context, or, at least show that the principle is true in the political case. Klosko and Arneson seem to take the second line. On the one hand, they agree with Nozick that the principle does not generate obligations in Nozick's examples. This seems to concede that the principle is not a generally true principle (or for it to be true, one needs to revise it). On the other, they argue that the principle indeed does generate
obligations in the political context. To refute the voluntarist claim, Klosko relies on an assertion that mere receipt of presumptively goods suffices to obligate if such benefits met the following conditions: they are presumptively beneficial; they are worth the burdens in question; others contribute to them; their distribution is just. This seems to be a new statement of the fair play principle. Is it obviously true?

Klosko proves its truth by instantiating presumptive benefits as goods that are only available in a political society, like national security, air pollution control, the rule of law, etc.\(^\text{17}\) Even Klosko's proof is sound, we are left with a feeling of circularity. Klosko's aim is to defend the principle against voluntarism. The only possible way to do this is to show that mere receipt of some sort of goods in an appropriate context suffice to obligate. But his context is precisely political society. He argues that merely benefiting from national defense, law and order, air pollution control, etc., suffices to obligate. If his argument is successful, political obligation is already defended. His strategy becomes circular because he justifies his revised principle of fairness by presuming that in the context of national defense the political
obligation does exist, and justifies political obligations through the revised fairness principle.

4

Though the fair play account I discussed above faces serious problems, one of its assumptions is very instructive for us to develop a new account. To see this, let us review some essential components of the fair play account. One of the conditions under which the obligation is generated is that at least the majority of participants have already engaged in the collective enterprise.

Klosko describes the case of national defense as follows:

"In times of national emergency, when everyone else is willing to contribute to national defense, A is obligated to contribute her fair share."\textsuperscript{18}

It seems to Klosko that A's obligation to contribute to national defense depends on others' willingness to contribute to national defense. How could we accept this kind of explanation? Fairness must presuppose a reasonable

\textsuperscript{17} Klosok, 1992, pp.40-48.
exchange between burdens and benefits. To defend the country is to risk one's life. Why do I have to risk my life because others have done so? Suppose three people are grouped to climb a fairly but not very dangerous mountain. If they succeed, they get honored and in this sense all of them benefit from the joint adventure. However, when they get to the mountain, one of them fears. Do he have an fairness obligation to climb if the other two have started and if these two succeed the one will also be honored?

The point is not around burdens, benefits, and fairness. I don't believe that most people will think that when foreigners invade their country, they are obligated to defend their homeland because their fellows are doing it or are willing to do it. On the contrary, I believe that they feel obligated to protect the country even if there are others who surrender to the enemy or even betray the country. This obligation is by no means generated by a sense of fair play. During the wartime, soldiers usually run more risk and enjoy less benefit than other citizens do. How could the principle of fair play explain this asymmetry?

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A plausible explanation should be like this. When there is a national emergency, one is obligated spontaneously to take part in national defense. This spontaneity doesn’t not mean that the obligation arises without reason, but means that its incurring does not rely on a calculation of whether or how much others have do or will do. One decides to defend his country because this is his country, because there are his people. In the case of national emergency, one don’t have time to see how many other fellows are willing to defend their country and how much they have done. Other people’s attitudes and activities may influence, but not be the bases of, one’s attitude and activity. Collectively, this kind of thought and action constitutes the basis of a political community. On this basis, the principle of fair play is to constrain free riders of the community. Without this basis, the principle of fair play is an empty principle. A true picture of political obligation must a picture of this basis.
Chapter 6 Membership

Given the failures of various accounts discussed in the previous chapters, the view that will be articulated and defended in this chapter deviates significantly from those attempts to ground political obligation in single moral principles. The strategy is that, while it is hard to give a direct answer to the question what the moral basis of political obligation is, we may take a transcendental turn, that is, to answer the question why members of a political society believe they do have such an obligation. My argument aims to show that there are some vital facts about the political society and its members, which justify this belief.

Before I proceed, it is instructive to briefly review those approaches to the problem of political obligation discussed in the previous chapters. We have seen that none of those moral principles (the voluntarist principle, the principle of natural duty, the principle of gratitude, and the principle of fairness) could suffice to justify the general notion of political obligation. This is mainly due
to the complexity of the political life. A political society is a context in which it is unrealistic to find a single source for our political bonds. The voluntarist principle, leaving aside our doubts about its moral basis, has very limited applications in the political context. The principle of gratitude and the natural duty of justice, though providing some reason for citizens to support their political institutions, have failed to bind individuals to political societies of their own. While Rawls thinks the principle of fairness binds people under two conditions, he nevertheless admits that this principle could not generate general political obligations because one of the conditions, the condition that one must voluntarily accept benefits from the political and social arrangements is not available in a political society. Then, Rawls has to make a choice: either to abandon the principle of fairness, or to conclude that there are no general political obligations. As is well known, he chooses the latter. Simmons, whose *Moral Principles and Political Obligation* might be a contemporary classic on the subject, after more extensive examinations of currently leading accounts of political obligation in the liberal tradition, has come to a similar conclusion that "citizens generally have no special
political bonds which require that they obey and support the governments of their countries of residence.”¹

However, that political obligation could not be justified in single moral principles does not imply that “political theory cannot offer a convincing general account of our political bonds”. The quoted sentence is Simmons’s.² Maybe our political bonds could be accounted for without appealing to general moral principles. There might be social facts that suggest the possibility of such bonds. There is a clue from the fair play account. As I have discussed in the last chapter, one of the indispensable facts from which the principle of fairness derives its binding force is that the cooperative scheme is already well maintained by a vast majority of the members of the scheme. Without this fact, we would be confronted with the question, “to whom ought we to be fair?” Taking the fact as a background condition (and hence leaving it untouched) is a shortcoming of the fair play account, and explaining the fact is exactly the task of a convincing account of political obligation.

The fact is associated with a feeling that is shared by the majority of the scheme members. As Simmons rightly

describes, most citizens feel that "they are nonetheless bound to support their country’s political institutions and obey its laws, in way that they are not tied to the corresponding institutions of other countries". The question is, what distinguishes "their country" from other countries? Or, what is it for a country to be "their country"? Is a country their country because they have consented to be a citizen of it, or because it provides them with benefits, or because it is a just country? None of these answers is correct, because neither consent, nor acceptance of benefits, nor the justice of institutions could define the relationship between a citizen and his political society. Whether one belongs to a society is not up to what one has done, but up to whom one is. Nothing else can answer the above questions except a further feeling still shared by them that "this is our country". If you want to ask somebody, "why do you feel that the United States is your country?" probably you will be disappointed by the answer, "because I am an American."

I am not sure if the final answer can still be meaningfully questioned. If not, we seem to have related the feeling of political bonds to an identification

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2 Ibid.
3 Simmons, 1979, p.3.
statement. Throughout this chapter, I will argue that the notion of political obligation can be well accounted for in terms of that statement. Some philosophers have proposed a family of arguments for this position, which are usually called "conceptual arguments" or "analytic arguments". I will discuss some of these arguments and argue that they are inconclusive. Then I will give my own argument, which can be called a transcendental argument. After examinations of the conceptual argument, I will first present the general structure of a transcendental argument. Further, I will show how a transcendental argument can be applied to solve the problem of political obligation. Because the argument is transcendental, it does not directly focus on the traditional question what generates political obligations. Rather, the argument is directed to show that in a political society citizens generally have ample reason to think that they do have political obligations.

The early version of the conceptual argument was intended to dissolve the problem of political obligation by analyzing the meanings of such concepts as state,
government, citizen, member, authority, obligation, and so on. Advocates of the argument claim that having political obligations is part of what it means to be a citizen of a state; or correspondingly, that having authority over its citizens is part of what it means to be a state or government. Though this argument seems to give a positive account of political obligation, it includes a negative part as well. It implies that any attempt to provide a general ground for political obligation is misconceived and unnecessary.

McPherson writes,

"Belonging in society involves ... rights and obligations. Understanding what it is to be social would be impossible unless we understood what it is to have rights and obligations—and vice versa... That social man has obligations is therefore not an empirical fact (which might have been otherwise) that calls for an explanation or "justification". That social man has obligations is an analytic, not a synthetic proposition. Thus "why should we accept obligations?" is misconceived. "Why should I (a member) accept the rules of the club?" is an absurd question. Accepting the rules is part of what it means to be a member. Similarly, "Why should I obey the government?" is an absurd question. We have not understood what it means
to be a member of a political society if we suppose that political obligation is something we might not have had and that therefore needs to be justified'.

The last sentence is quite aggressive. Even if I know that I have political obligation, I can still reasonably ask, "Why do I have it?" It does not seem to me that the proposition that social man has obligations is obviously analytic. On the one hand, that I am a social man is, at first sight, a non-normative fact, while that I have obligations is a normative statement, meaning that I ought to act in certain ways. We surely need some explanation of the connection between being a social man and having obligations. On the other, even if I am currently a "social" man under certain obligations, it is still sensible for me to reflect on what I am and have. I may reasonably ask, "Should I keep my status as a social man, if there is a possibility to abandon it?" McPherson seems to reduce the problem of political obligation to a problem of linguistic usage of the relevant words. This can't be so. Usually men are not obligated to do something by just understanding the meanings of the relevant words. To be more specific, men are not obligated to support the

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4 McPherson, T., Political Obligation, Routledge and Kegan, 1967, p. 64)
political institutions of their state by figuring out what "citizen" means.

Hobbes has already provided the argument that establishes the necessary connection between some non-normative facts and normative facts. For Hobbes, there are non-normative facts about human psychology. There are fundamental human needs, wants, values, and interests. There are also non-normative facts about human rationality and capacity. For example, from the non-normative fact that hunger causes suffering, we can infer a normative prescription that we should avoid being hungry. While there are inescapable conflicts between needs and interests of individuals because of the limits of resources, the only possible way to deal with the conflicts is to live a civilized life in which some kinds of actions or conduct are generally recognized and observed by members of the society. A Hobbesian community might be a bare or informal community in which members' observance of the rules is exclusively to their individual advantages. A bare community lacks stability. One can think a jailhouse as an example of a bare community. It looks as if prisoners follow the rules of the jailhouse and maintain a well-ordered way of living there. But we assume that they do this for the fear of punishment, and that they have no
intention to give mutual care to each other, and that they will abandon their "community" whenever this is possible. Such a community is contrary to a real community in which members have developed a sense of mutual responsibility toward each other. A real community or union of people is integrated by some kind of communal life. In a real community, members not only perform actions that keep the community in order, but also believe that they are obligated to do so. Normal families, friends, and neighbors are such real communities, so are mature political societies. A political community can hardly stand, let alone flourish, if mutual care and responsibilities are absent between members. Civilized or social life becomes the fundamental need of individuals because of its utility. Social practices define the content of various obligations. Even the obligation to keep promises can be explained in terms of this sort of argument.\(^5\)

This seems to show that the Hobbesian argument is supplemental to the conceptual argument, because it gives a fair explanation of the alleged "analyticity" of the proposition that "being a social man entails having obligations". Proponents of the conceptual argument should notice the distinction between bare communities and real

\(^5\) See Chapter 3.
communities. In the former, members only perform the required behaviors, and hence only exhibit a physical proximity, while the latter is marked by an intentional proximity in addition to the physical one.

The problem is that the conclusion of the conceptual argument is not so powerful to provide a solution to the problem of political obligation. The conclusion we have reached is that it is necessary for us to live a social life and hence to conform to social practices or institutions. The problem of political obligation is more substantial. It needs an explanation of what establishes the particular relationship of an individual to the social practices in which he is located. This problem is raised by Simmons in his recent criticisms of the conceptual argument:

"Even if political obligations for members are entailed by the very concept of membership, it remains meaningful and important to ask what makes a person a member of a political community and thus to ask what grounds the (analytic) obligations of membership (supposing any such exist)." 6

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Simmons's solution is that only datable voluntary undertakings make persons members of a political community and hence grant them obligations. To make clear Simmons's point, let's consider a similar argument by Beran, in which he raises an analogy of political obligation with marital obligation. Beran's argument is directed against Hume's objection to the voluntarist account of political obligation. According to Beran, Hume's objection to voluntarism goes as follows. The voluntarist account of political obligation takes the following steps: (1), we are bound to obey the government, because (2), we have promised to obey the government, and (3), we are bound to keep our promises. Hume attacks this account by asking (4), why should we keep our promises? He answers: because (5), it is necessary for civilized life. Hume's objection is that the necessity of civilized life sufficiently justifies (1). Moreover, Hume claims, (1) and (3) share the same foundation. The obligation to obey the government and the obligation to keep word are both grounded in their necessity for civilized life. If this is so, the voluntarist appeal to consent or promise is an unnecessary shuffle.

Beran argues that Hume confuses two different questions, (1) why do we have the institution of state or
government? and (2) why does an individual stand in a particular relationship to a state? Beran's point is that Hume's argument can only answer the first question and is irrelevant to the second. Beran articulates this point by the following example:

"Why do we have the institution of marriage? ... Why do individuals A and B have certain marital obligations to each other? The answer to the first question may well be that the institution of the family is necessary for civilized life. But this answer cannot explain why two particular individuals have certain marital obligations to each other. The answer to this question is that they have promised to love and support each other."  

The implication of this example to the problem of political obligation seems to Beran doubly obvious. First, the necessity of the state for civilized life may well explain why we should have institutions like the state or marriage, but cannot explain why an individual owes obligations to obey a particular state, or to love and support particular persons. Second, the answer to the question why an individual has political obligations, like

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that to the question in the marital context, is that the individual has promised to obey the state.

I believe Beran's analogy of the institution of marriage and that of the state only partly hold. Even though I agree with him that there really is a need to make the distinction between the two questions, his answer to the second question is flawed. First, Beran's example is carefully selected in favor of his voluntarist preference, because he think "the consent theory of marital obligation" cannot be challenged.\(^8\) Why doesn't he choose the analogy of parental obligations? It is not so obvious that the analogy of marital obligation is closer than that of parental obligation. This is a problem for Beran, but I only mention it rather than pursuing it. Second, even if the analogy of marital and political obligations is granted, it is not helpful to Beran's voluntarism. Beran claims that individuals A and B have marital obligations to love and support each other because they promise to love and support each other. There is a very subtle distinction that we should notice. When A promised to love and support B, which of the following two obligations is the obligation

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\(^8\) Beran says on the same page, "Married people have an obligation to love and support each other because they promise to do so in the marriage ceremony. I hope no one
generated by A's promise: the obligation to love and support B, and the marital obligation? Strictly speaking, it is the former because it is what A promised. The two obligations may overlap in their contents but are not identical. Their difference can be shown by two observations. First, when A promised to love and support B, A has assumed an obligation for himself. This promise obligates A even without their marriage. Second, there is a legal procedure to forfeit marital obligation, for example, by divorce. However, a similar procedure is not needed to withdraw a promise. One might reply that what A promised B is exactly the marital obligation, that is, A promised B to do what the marital obligation requires. This is to say that there is something out there, which is called "marital obligation", and that A chooses to accept it upon the marriage. However, this is to reconfirm the conceptual point that persons holding the status of marriage have marital obligations, rather than denying the point. Once one enters into the marital status, one obtains the marital obligation. What is up to free choice in this case is the marital status, not the marital obligations: if you choose

would want to challenge this "consent theory of marital obligation...".
to marry somebody else, you acquire an obligation to him or her.

We have seen that the conceptual link between membership and obligations can be established through a Hobbesean argument. We have also noted that, as Simmons points out, the conceptual link cannot explain why an individual has obligations to a particular political society. The point is that what the conceptual argument shows is that the individual is obligated to create and maintain a social order, or obligated to live a civilized life. This general line of thought is not so substantial to provide an account of the special ties between particular individuals and their political society. These special ties consist in conformity to particular social practices. On Simmons's view, the conceptual argument entails a view that particular or local social practices (and our roles or places in them) independently determine (some or all) moral requirements. In the example of marital obligation Beran provides, advocates of the conceptual or analytic argument must demonstrate that the social norms about marriage have morally binding force over married individuals in order to reject the voluntarist view that marital obligations are voluntarily assumed by married people.
Therefore, Simmons demands that any account of political obligation oriented by conceptual arguments must go to justify the normative force of local social practices in which individuals holds roles or places. The case of marital obligations is obviously different from that of political obligation. The membership and the consent accounts of marital obligations don’t seem incompatible with each other. This is because, on a simple explanation, married individuals acquire the role obligations of husband and wife by their voluntary acceptance of these roles. With regard to political obligation, there is generally little sense in which individuals can voluntarily accept their statuses as citizens. Membership of a political society is not generally the result of a voluntary undertaking to join. As concerns the involuntary feature of citizenship, political obligation is closer to parental obligation than to marital obligation.

The voluntarist reaction to the involuntary membership of a political society is clear. On the voluntarist principle, particular obligations are self-assumed, and individuals will not have political obligations until they have voluntarily accepted the role as a citizen through deliberative undertakings. The conceptual account seems to imply that local social practices in which individuals
simply occupy roles or stations can bind them without their voluntary undertakings. Then the conceptual account must include an explanation and defense of the normative relationship between individuals and their local social practices. It seems to Simmons that this project is doomed to fail. There are plenty of morally unacceptable social practices: violations of human rights, arranged marriages, sexual and racial discriminations, sale and slavery of children, and so on and so forth. Can we have obligations to conform to them simply because we hold roles and places in them? Simmons's answer is that local social practices must be subject to the assessment by external moral principles. And this in turn shows that local practices do not have the alleged normative independence.

"The pressure to deny the normative independence of local practice derives primarily from one obvious fact and from one broad theoretical disposition. The fact is: local practices and institutions can be unjust, oppressive, pointless, woefully inefficient, and in other ways normatively defective. We have all seen more than we care to of all these defects. It seems natural in the face of such examples to maintain that either certification of a practice by some independently justifying moral principle or acceptance of the practice to be genuine moral
obligations. The theoretical disposition is the belief that universality (or at least a generality far broader than the local) is an essential property of moral judgments, including those moral principles that entail ascriptions of local obligation.”

While it is conceded that this kind of objection pose serious problems with the conceptual argument, it is nonetheless not in favor of the voluntarist contention. The reason is the same: consent or deliberative commitment to these morally unacceptable practices does not generate obligations either. Of course, voluntarists don’t need to say that mere consent suffices to obligate. They would rather assert, as Beran claims, that “consent is a necessary condition for the members of a state being under political obligations.” Then a successful defense of the conceptual point must explain why political obligations are associated with membership of a state even if there is little sense in which it is voluntary. In Simmons’s terminology, such a defense is a defense of the normative independence of local social practices. With Simmons’s distinction between universal moral principles and local moral principles and his criticisms of the reliance of the

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9 Simmons, 1996, p. 266.
10 Beran, 1977, p. 263.
conceptual account on the normative independence of the later, is it possible for the conceptual account to survive?

In the following sections, I will make use of a transcendental argument to give an indirect defense of the normative independence thesis. Such a defense does not justify local practices from outside, i.e., in terms of external universal moral principles. Rather, I would like to reveal the internal relation of members of a society to their social practices. I believe that this argument will provide a feasible way for the conceptual account to meet Simmons's objections.

A general form of transcendental argument is like this:

(1), X would not be possible if not Y;
(2), there is X; therefore
(3), then Y.

I will use this kind of argument to argue for a view that people could reasonably accept a set of non-contractual obligations, in opposition to the voluntarist
position, i.e., that all obligations are derived from voluntary undertakings. Before I proceed to do this, I will first discuss a parallel context in which Kant argues that there exists a priori knowledge that is independent of any human experience. Because my work is not about theories of knowledge, my discussion of Kant’s work is barely sketchy.

The dominant view of human knowledge before Kant is that all knowledge comes from human experience. With respect to this empiricist view, Kant makes a distinction between the question of fact and the question of right. Kant claims that empiricism can at most answer the first question, a question of how we come to have some knowledge or concepts. The question of right, namely, whether our possession and employment of these concepts can be justified, has not been touched. Kant thinks empiricism is unable to answer this second question because empirical proofs do not suffice to justify the a priori employment of the concepts. The question of right is a question of justification (proof, in Kant’s term). Kant says we need a deduction of the concepts in question in order to answer it, and such a deduction must be transcendental (A86, B118). Transcendental deductions of a concept are exactly transcendental arguments for it. Kant distinguishes two kinds of deduction, empirical and transcendental, and
argues that a successful deduction must be a justification a priori, and hence transcendental.

"For since empirical proofs do not suffice to justify this kind of [a priori] employment, we are faced by the problem how these concepts can relate to objects which they yet do not obtain from any experience." (A85, B117)

Here Kant's argument seems circular. It does convince the empiricists, if the reason why empirical proofs fail the justification is independently presented. Kant says empirical deduction shows "the manner in which a concept is acquired through experience and through reflection upon experience, and which therefore concerns, not its legitimacy, but only its de facto mode of origination."\(^{11}\) But this is only to say empirical deduction fails either by the definition of justification or legitimacy in transcendental terms, or by the conviction that there are concepts independent of any experience. For he says "there are some [concepts] which are marked out for a priori employment, in complete independence of all experience."\(^{12}\) The point Kant reaches here is at most that the empirical deduction of a concept fails if its employment is a priori. Empiricists would not like to accept this charge until they

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are convinced that there are concepts *a priori*. They might recognize the need to answer the question of right without committing themselves to a transcendental deduction.

The circularity in Kant’s argument can be put as follows. A deduction is demanded so as to meet the requirement of justification. It can be either empirical or transcendental. If the empirical were sufficient, then the transcendental might be redundant. Kant here only suggests that the former is insufficient because there are *a priori* concepts, and that transcendental deductions are necessary. But it is exactly the conclusion his transcendental deductions aim to establish, that there are *a priori* concepts. The only way out of this circularity must be to show that empirical deduction in its own fails to establish a justification or that an empirical justification does not count as a justification at all. The further task consists in providing an independent reason why the empiricist view that all concepts must be derived merely from experience necessarily entails the failure of their justification. If such a reason is not convincingly spelled out, Kant’s argument cannot be complete.

My interpretation of Wittgenstein’s private language argument shows that Kant need not worry about the

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12 Ibid.
circularity. Wittgenstein's argument is interpreted as a reductive argument against empiricism. The point is that if we hold that all concepts are derived from experience, we are not capable of distinguishing what is right and what seems right. Wittgenstein's private language argument is a reductio of some core ideas shared by various empiricist theories. Wittgenstein's concern is about the problem of justification that appears in an imagined case of speaking a private language. A private language, according to Wittgenstein, is a language whose words a speaker uses to stand for his private immediate sensations, and which anyone other than the speaker cannot understand in the sense that anyone other than the speaker cannot have access to the speaker's sensation. This kind of language is precisely Lockean. Locke's view is that all that a person can know is his own ideas. He says, "Words in their primary or immediate Signification, stand for nothing, but the Ideas in the mind of him that uses them", and then continues, "A Man cannot make His Words the Signs either of Qualities in Things, or of Conceptions in the Mind of another, whereof he has none in his own."\(^{13}\) The problem Wittgenstein raises with this kind of private language is

that there might be no justification of the speaker's uses of his words. Imagine that in order to record the recurrence of a certain sensation, I associate a sign with this sensation and write it down in a calendar each time when I have the sensation. At some time, I might suspect whether my record is correct — a question of justification appears. How do I check it? "Well, that is done precisely by the concentrating of my attention; for in this way I impress on myself the connexion between the sign and the sensation." But 'I impress it on myself' can only mean: this process brings it about that I remember the connexion right in the future. But in the present case I have no criterion of correctness. One would like to say: whatever is going to seem right to me is right. And that only means that here we can't talk about 'right'."¹⁴ But speaking a language is a regulative process, and "regulative" makes sense only if there is a proper way to judge the correctness of the process. The argument suggests here that if the Lockean conception of language is correct, then language will lose its essential character of regularity. As long as we can meaningfully talk about being right and seeming right, the empiricist view must be incoherent.

Kant's transcendental argument for concepts a priori goes as follows:

(4) Our experience would not be possible if there were not some concepts.

(5) Our experience exists, therefore,

(6) Such a concept exists.

The plausibility of the argument will be clear if we translate it into Strawson's fashion:

(7) Intelligible thoughts would not be possible without a conceptual scheme;

(8) We have intelligible thoughts; therefore

(9) A conceptual scheme exists.

Step (8) is a claim that no one could intelligibly deny. Propositions like (8) are called "the privileged class" by Stroud.\textsuperscript{15} The denial of (8) renders the denial itself unintelligible. Since a conceptual scheme is related to experience through particular concepts, it follows from (8) that these concepts exist logically prior to experience, otherwise the conceptual scheme must be empty. I would like to call this part of the transcendental argument "global". It suggests that there must be some a

\textsuperscript{15} Stroud, B., "Transcendental Arguments", in T. Penelbum & J.J. MacIntosh (ed), The First Critique, Wadsworth, p.68.
priori concepts that are independent of our factual experience.

The problem with Kant is that such an argument is not able to show what these concepts are. In other words, the argument above does not provide justifications for concepts listed in his table of categories. To justify them, Kant employs the following argument:

(10) Our sensible experience would not be possible if there were no concepts like causality, substances, etc.;

(11) We have sensible experience; therefore

(12) These concepts exist.

However, this argument does not look safe, because premise (11) lacks the self-guaranteeing feature. Comparing (11) with (8), we find that denial of (11), unlike that of (8), causes no predicament for whoever makes the denial. Denial of (8) is saying that any thought is wrong, and one who says any thought is wrong is to undermine one’s own position. Denial of (11) is just saying some thought is wrong, but this is entirely intelligible.

The later form of transcendental argument for the categories is usually called “metaphysical exposition”. Korner points out that Kant’s metaphysical expositions can’t do without the current metaphysical doctrines dominating his time, like the Euclidean geometry, the
Newtonian mechanics, and the classical logic.\textsuperscript{16} The question raised by Korner is exactly parallel to Simmons's criticism of the normative independence of local practices. Korner's point is that the Kantian justifications for his \textit{a priori} concepts depend on a particular conceptual construction of the world that makes use of a conceptual scheme filled up with the current doctrines, but these current doctrines are not self-justifying. We can imagine the conceptual scheme of intelligent bats.\textsuperscript{17} Bats perceive the world through their sonar system, an organ lacked by human beings. In so far as the bats can efficiently interact with the external objects, they indeed form a "conception" of the world. Surely, their conception is a "local" one, because there are other significantly different ones including ours. Then, in what sense are all of these local conceptions to be justified? The global form of transcendental argument can only suggest that denying all conceptual schemes is undermining the denial itself, but this is not a justification of any of them. The local


\textsuperscript{17} I am inspired by Nagel's well-known article "What is it like to be a bat?" in T. Nagel, \textit{Mortal Questions}, Cambridge University Press, 1979, pp. 168.
form of the argument, according to Korner, does not look secure. Is there any way to get us out of this predicament?

My own solution appeals to a notion of the relative normative independence of local practices. This notion has two essential components. First, stable local practices have normative force. This is the conservative part of the notion. The bats’ successful interaction with the world will partly justify their conceptual scheme, so will our human beings’. Second, any local practice is interpretive. That is to say, any local practice is subject to constant interpretation and reconstruction. This is the critical part of the notion. With the first part, we can refute the comprehensive skepticism, and with the second, we are immune to dogmatism. The notion also shows that attempts to justify a local practice from an absolute perspective, a perspective detached from any historical contingency, or attempts to justify a view from nowhere, are both unnecessary and impossible. It is my contention that this thesis of the relative normative independence of local practices constitutes the essence of a transcendental argument. Interpreting transcendental arguments in this way may invite us to take a Quinean turn, that is, to abandon foundationism in favor of holism. To say nothing is absolutely secure is not to say everything is dangerous. We
are not to justify a belief in terms of infallible beliefs or in God's eyes. One can still defend his local practice through its holistic relation to his wider range of activities.\(^{18}\)

So much for the discussion of transcendental arguments. I shall now turn to the problem of political obligation.

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I will first argue that there are non-contractual obligations in general. Here is the argument:

(1) Civilized life will not be possible if we don't think we have obligations to other human beings;

(2) Civilized life exists; therefore

(3) We do think we have obligations.

Premise (1) is a Hobbesean thesis we have already discussed in section 2. It should be noticed that (2) is not only a

\(^{18}\) Sher employs the similar strategy in his recent work on perfectionism. He argues against the skeptic view that no particular conception of the good can be justified by remarking that "In particular, if someone wishes to defend a particular conception of the good, he can appeal to its deductive, explanatory, probabilistic, or analogical relations to any of his other beliefs". See Sher, Beyond
neutral or descriptive fact, but also a normatively positive fact. To say a fact is normatively positive is to say that the fact refers to a state of affairs that one should promote. Therefore, if civilized life is a good thing, its existence is normatively positive.

Correspondingly, there are also normatively negative facts, like the existence of murder, corruption, racial and sexual discrimination, human right abuse, so on and so forth. They are what we ought to prevent. So, another sensible way to read (2) is "We ought to live a civilized life". Then, the whole argument runs like this: Since civilized life would not be maintained without our relevant obligations, and since we ought to pursue civilized life, we should have such obligations.

That there are non-contractual obligations is not a strange claim. The best-known non-contractual obligations are the so-called "natural duties". From the voluntarist point of view, the status of natural duties is mysterious. First, where are they from if individuals do not voluntarily assume them? Second, how could they bind individuals if they have not consented? I would like to consider two kinds of answer.

The first answer associates the status of natural duty with the natural laws. It is said that human beings are created with natural laws. Locke points out that natural laws bind individuals even if they are not in a civil society. This answer is surely non-voluntarist. Similarly, Rawls says, "it is characteristic of natural duties that they apply to us without regard to our voluntary acts. Moreover, they have no necessary connection with institutions or social practices; their content is not, in general, defined by the rules of these arrangements."\(^{19}\) However, to say that men are born with natural laws and that natural laws bind men unconditionally (any time everywhere) is not much different from saying that being a man is analytically linked to being bound by natural laws.

The second answer tries to account for natural duties in terms of hypothetical agreement. It claims that had individuals been asked, they would agree to observe these duties. I have pointed out in chapter 2 that a hypothetical agreement cannot count as a voluntary act. The hypothetical agreement account could not render natural duties voluntarily assumed. It at most amounts to a claim that individuals should agree to do these duties, and this is

rather a restatement of the conceptual connection between human beings and natural duties.

The conception of natural duties (I would like to call them "global obligations") implies a sense of a loose community, i.e., the community integrated by humanity. That is to regard human beings as members of a universal society, a society of mankind, whether real or imagined. You have not choose to be a human being, but you have these obligations simply because you are a human being.\(^20\) Being a human being entails owing natural duties to other human beings. Our global form of transcendental argument has come to a conclusion that there are obligations without a voluntary basis within such a society. Though this argument has not solved the problem of political obligation, it suffices to refute the comprehensive voluntarist view that all obligations are voluntarily assumed. In the following,

\(^20\) Hardimon has given a strict definition of "role". According to his definition, a role is institutionally defined. Thus, "The status of human being or person, for example, are not roles, To speak of the obligations we have as human beings or persons as role obligations is a confusion." (p. 334) Well, while I may use "role" here in its loose sense even to refer to the status of person, my position is not significantly incompatible with his. For I am only suggesting that the obligations associated with the "role" of person are not voluntarily assumed. For Hardimon's discussion, see his "Role Obligations", in The Journal of Philosophy, July 1994, pp. 333-63.
I will turn to the more substantial work: to justify one's obligation to his political society.

Such an obligation to one's political society, if it exists, is not a global one, because it is directed not to all persons but to a particular group of persons. So, it can be called a local obligation. Beside the political obligation, there are other local obligations. Examinations of some other local obligations may provide an easy entrance to the problem of political obligation. Let me consider familial obligations.

A transcendental argument for familial obligations may go as follows, and it applies to us as family members:

(4) Our family life will not be possible if we don’t think we have obligations toward other family members;

(5) We are living the family life;

(6) We do think we have familial obligations.

I have pointed out that this local form of transcendental argument is not secure, and needs interpretation.

First, I need to explain step (4). It says familial obligations are necessary for family lives. One may ask: why does the existence of family life depend on familial obligations? Why isn’t caring behavior among family members sufficient? The reply is like this. Either such caring behavior is the outcome of familial obligations, or mere
behavioral proximity is not enough for real family lives. Imagine one is playing a family role in a movie or a play and performing "caring behaviors" to other "members" of the "family". Can we say that they are living a family life because they take "care" of each other? Family life depends on emotional bonds on which familial obligations are based. Emotional bonds are constitutive of the psyche of the members of the family. We can ask, why do we perform special caring behaviors to each other as family members rather than to other people? The answer must be because our emotional bonds specially tie us to each other. So, step (4) seems plausible.

Second, an apparent danger of this kind of argument is that it can also serve for a justification for obligations of members of a criminal gang. To avoid this danger, we need to interpret step (5) carefully. The basic point is that (5) must be a normatively positive fact. Not all social facts are normatively positive. Suppose there is a report that a bank robbery took place in New York yesterday. Though this report is objectively true, we are not to think that the fact that there was a bank robbery is normatively positive. We would rather like to think that this kind of events are what should be decreased or eliminated by our efforts. On the other hand, the
normatively positive state of affairs is what we should maintain or promote. Then, our interpretation of (5) includes the following elements: first, the collective life of a family is at least morally acceptable; second, members of a family think their collective life is valuable. Under these two conditions, a family member will think he owes obligations to other members of his family even if being a member of the family is not a result of a voluntary choice. As far as I know, these two conditions are nearly universally met in all societies. These two conditions, along with premise (4) give strong reasons for family members to think that they have such obligations.

Horton presents another account by claiming that familial obligations are self-evident. He says and asks, "For most people and in most circumstances obligations of family membership need no justification in terms of some external moral principle or some obligation-creating voluntary undertaking. It’s generally sufficient to point out that one does stand in a certain relationship to this or that member of one’s family. Why must there be a further moral justification?" Horton might be right if his discussion presupposes a context in which the justice of

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family as an institution is not questioned. But Simmons raised a more general and critical problem, "We do not automatically accept all aspects of the various institutions or practices of family life. Instead, we reject locally assigned parental rights or obligations where these seem cruel or discriminatory or oppressive. We may, for instance, reject established norms of family life that involve parental priority, abandonment or sale of children, genital mutilation, arranged marriages, and so on."22 While some of Simmons says might be plausible, I am not very sure about his target.

I read Simmons as having two points. First, he does not seem to hold a view that family, as an institution is necessarily a moral evil. He is just pointing out that there are moral unacceptable norms of family life, like "parental priority, abandonment or sale of children, genital mutilation, arranged marriages, and so on." In these cases, Simmons claims that we must reject certain relevant obligations. However, the fact that some patterns of family life are morally defective does not generally show that family life is not worth living. Second, he requires that familial obligations be justified in terms of external moral principles. I am deeply skeptical about

22 Simmons, 1996, p. 267.
whether we can meet this requirement. There is a strong sense as well as a weak sense of “justification”. In the weak sense, an action is justified by a principle if this action does not violate the principle. For example, my giving special care to my parents does not violate the principle “help others when you can”. In the strong sense, an action is justified by a principle if the principle requires the performance of the action. Thus, my giving a ride to a deserted stranger is justified by the principle of mutual aid in this strong sense. If Simmons requires a justification in its weak sense, then his point is not opposite to Horton's view, because both of them recognize the moral legitimacy of giving special care to one’s family members. If Simmons has in mind the strong sense of justification, I am not sure that we can infer our obligations to our significant people through universalistic external moral principles.

Though justifying familial obligations in terms of external principles is neither possible nor necessary, this is not to say that familial obligations have no ground. There are other ways to show the ground. Members of a standard family are tied to each other through a stable and objective biological bond. Biological bond generates emotional bonds. This is a stubborn social fact, part of
the way almost everyone is. Mutual care between family members is the essential part of their collective life and constitutes the private sphere of enjoyment. In section 2, I have mentioned a Hobbesean argument that normative considerations could be derived from non-normative facts. It may be called "the morality of affection." Special ties require special care. Breaking such ties is usually a great pain and demands a radical transition in one's self-conception. In the context of a family, members are much more vulnerable to each other's conduct than to the conduct of other outsiders. This vulnerability poses restrictions on their attitudes and behavior to each other, and hence enhances their belief in their obligations to each other.

I can conclude my discussion of familial obligations as follows. The transcendental argument shows that even if being a family member is not a matter of choice, there are still reasons for one to think that he has familial obligations. The argument is interpretive. It is interpretive because its validity depends on the proper conditions about the individuals in question. The first condition is the moral justifiability of familial practices. The existence of morally defective familial practices does not render us to deny family in general as a favorable institution. The second condition is that family
members positively approve their collective life. It requires that they regard the existence of their family as a normatively positive fact.

Some theorists have even a stronger view that family is conducive to human perfection. Sher places an argument for each of Parfit's list of good things. One of the good things in Parfit's list is "having children and being a good parent". Though Sher generalizes it as close personal relations including "bonds between sexual partners, ties of friendship, and even professional and collegial relations"\(^{23}\), its relevance to my argument is clear. Pursuing such goods must presuppose the existence of some institutions is normatively positive.

This account of familial obligation is different from both the voluntarist and the universalistic approaches, the former approach requiring familial obligations to be generated by voluntary undertakings, the latter deriving familial obligations from external moral principles.

The defense of political obligation will have a similar structure to what has been done to familial obligations here. We should be aware that the similarity between the two is very limited. Dworkin has pointed out a

serious disparity between them. Dworkin observes that there are a family of "communal" or "associative" obligations, referring to, "special responsibilities social practice attaches to membership in some biological or social group". These obligations include those of family, friends, neighbors, and arguably, citizens. The disparity between obligations of family, friends, neighbors, one the one side, and obligations of citizens on the other, consists in the following fact, i.e., that the former "are widely thought to depend upon emotional bonds that presuppose that each member of the group has personal acquaintance of all others, which of course cannot be true in large political communities."  

The disparity will become more critical to our project of justifying political obligation if we compare the following local transcendental argument with that for familial obligations:

(7) Our political society will not be possible if we don't think that we have political obligations,

(8) Our political society exists; therefore,

(9) We do think we have political obligations.

25 Ibid.
I have discussed the plausibility of step (7) by distinguishing bare community from real community in section 2. The point is that a bare community in which members did not develop a sense of responsibility for each other can hardly maintained because the mere behavioral proximity between members is unstable. It is a historical fact that the order merely maintained by power and fear of punishment cannot last long.

But, interpreting (8) is much harder than interpreting (5). With respect to the context of family, the existence of emotional bonds plays an essential role in family members' positive assessment of the family life. Can we find a similar interpretation for citizens' positive assessment of their political institutions without such emotional bonds?

To answer the above question, the crucial step is to interpret premise (8) in the last section. I need to show, as I did in the case of familial obligations, that the existence of the political society is a normatively positive fact for its members. Of course, whether the
existence of the political society is normatively positive, negative, or just neutral for a member is at least to some extent subject to his subjective judgements. Among members of a political society, there are a wide range of conflicting feelings and attitudes toward the political society, from "My country, right or wrong" to regarding the state as a band of robbers. I am not going to defend or refute any of these feelings and attitudes. Rather, I would like to consider what a political society is and what membership of a political society involves. And I hope my discussion will lead to an interpretation of premise (8) as a normatively positive fact, at least, for most members of a political society. In the following, I will discuss the most common features of a political society and its membership, which I believe support my argument. I will try to argue that the existence of our polity should be a normatively positive fact for most of us. Later I will deal with some hard cases against my interpretation of step (8), cases involving political aliens who think they are simply detached from any political bonds to others.

A political society is a historic community. It is characteristic of its constituent people, its geographical

26 The analogy of the state with a band of robbers can be found in R. P. Wolff, In Defense of Anarchism, Harper &
territory, its common character that encompasses many forms of life, its cultural and intellectual achievements, and its imagined future. The people include the past, the present and the future. A stable geographical territory is the necessary physical condition under which the people live and reproduce themselves, have pervasive cultures, develop literature and arts, and so on. A political society is not just an aggregation of these elements. Rather, there must be a minimal degree of fit between them. Such a fit can be characterized in the following aspects:

First, people's self-identification would not be possible without referring to some or all of these elements created by their social practices that jointly refer to a distinct common culture. People identify them with each other through what is common in them. Some theorists think the common culture is the essential mark of members of the society. Margalit and Raz, for example, say, "people growing up among members of the group will acquire the group culture, will be marked by its character. Their tastes and their options will be affected by that culture to a significant degree. The types of careers open to one, the leisure activities one learned to appreciate and is therefore able to choose from, the customs and habits that

define and color relations with strangers and with friends, patterns of expectations and attitudes between spouses and among other members of family, features of lifestyles with which one is capable of empathizing and for which one may therefore develop a taste—all these will marked by the group culture."  

Margalit and Raz’s purpose is to defend a notion of national self-determination. Having a common culture, according to them, is an important characteristic of those groups with the right of self-determination. Their point is relevant to our subject matter. The right of self-determination is essentially concerned with the normative independence thesis. The common culture is a product of a long history. Different groups will develop generically different cultures. Patterns of lifestyles and other social practices defined by the culture have their own values that may not be universally honored. The formation of a culture is a mark of the maturity of social practices. One’s self-identification would be pointless if there were no stable social practices to refer to, or if one lacked the belief that the maintenance and flourishing of one’s culture and the correlative social practices is a worthy endeavor.

Second, individuals' well-being is relevant to that of others in the society and to the collective achievements of the society as a whole. Within a political society, some members can enjoy achievements of others they may not be able to develop. Britons can take Hamlet as theirs without everyone being Shakespeare. While other peoples admire Walt Whitman and Michael Jordan, Americans are proud of them. People can also share the benefits that cannot be produced solely by any of them. Apollo's landing on the moon is a national accomplishment of the United States.

Third, among members of a political society, there is a mutual recognition of membership as a transcendental good. Membership is a matter of belonging, not of achievement. In most cases, one does not need to be a good person in order to be a member of a society. The mutual recognition of each other as fellow members in a society normally is not up to the accomplishment of individuals in question. This is pretty much like the case of family membership.

Without membership one is stateless and institutionally separated from other social goods in modern world. From a transcendental perspective, it is a pre-allocation of membership by nature that makes possible
artificial social contracts and distribution of social goods. It is somewhat paradoxical to say that we are grouped to distribute membership among ourselves, because membership is granted by birth and is not suitable for distribution. If there were no such pre-established membership, we would not know whom "we" and "ourselves" refer to. The external principle of universal moral equality cannot remove the bias towards members and against nonmembers, nor can this kind of universal principle make all societies welcome all individuals not on a selective base but on a belief that they are human beings holding morally equal status. Walzer thinks arrangements as entailed in a global libertarianism or in a global socialism, arrangements that open all societies to all persons, are unlikely to be realized in the foreseeable future.\textsuperscript{29} It is enough here to say that membership was and remains a big primary good until the realization of such arrangements.

Membership is a transcendental primary good. It is transcendental because its distribution is not subject to justice and fairness. Before pursuing the question of how social primary goods should to be distributed, we must

\textsuperscript{28} Margalit and Raz, 1990, p. 446.
\textsuperscript{29} Walzer, M., Spheres of Justice, Basic Books, 1983, p. 34.
determine to whom these goods are to be distributed. For example, we don’t have a prior principle for whom to be allowed into, say, Rawls’s original position. As Dworkin points out, “We treat community as prior to justice and fairness in the sense that questions of justice and fairness are regarded as questions of what would be fair or just within a particular political group.” Membership is transcendental also because it is the precondition for the distribution of other social goods. It is a good because with it people have a right to other social goods.

It is obvious that most people in the world don’t have control over whether to be a member of one society rather than another. The fact that an individual is uniquely related to his society, as long as it exists, suggests to us that this relationship should be taken seriously. This relationship is an internal one. The way I am related to my political society is generically different from the way I am related to my soccer team, or to my university. My passport or social security number identifies me essentially more accurately and sufficiently than my sport shirt or student ID does. Being a member of a society is not a matter of just temporally and spatially being with

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some other people like spending some time with some people
in a theater or a park. The confusion of membership of a
club or a sport team or a political party with membership
of a political society results from the ignorance of the
transcendental feature of the latter. It is the maintenance
of the latter that is nearly necessary for other kinds of
membership. You cannot be a Democrat or a member of the
dream team until you are an American citizen. Even in most
international organizations the ultimate identification of
members is their citizenship. This transcendental feature
of membership of political society reassures us that there
is a fit between individuals and their society. Such a fit
does have a normative force on individuals' response to the
society of which they are members.

Fourth, there is at least a minimal sense of community
that is implanted into the personality of members of a
political society. That is, as Gilbert points out, "group
membership is experienced as something consequential,
something which has its effects on the individual psyche,
something involving special tie or constraint." The sense
of community is a common appreciation of a communal life in
which members are not treating the society and other
members merely as means for their personal goods. It is
indeed a sense of justice that maintains a well-ordered society. According to Rawls, a sense of justice is one of the most basic moral sentiments, whose development relies on being situated, on assuming special attachments. Rawls remarks that

"Wanting to be fair with our friends and wanting to give justice to those we care for is as much as a part of these affections as the desire to be with them and to feel sad at their loss. Assuming therefore that one needs these attachments, the policy contemplated is presumably that of acting justly only toward those to whom we are bound by ties of affection and fellow feeling, and of respecting ways of life to which we are devoted. But in a well-ordered society these bonds extend rather widely...."\(^\text{32}\)

This is a clear passage that relates personal ties to those of community. The sense of a common life shared by members always plays an important role in one's acquiring stronger duties. For example, the small city-state of antiquity, in which citizens knew each other, demonstrates a much stronger solidarity and demands much stronger obligations of its members than most modern societies do. However, the civic bonds in the large-scale modern political societies

\(^{31}\) Gilbert, 1993, p. 126.

can be interpreted in a different way. That is, in modern societies, we no longer think we are bound to our fellow members of society through the ancient thick sentiments, but through a much thinner sense of justice.

Fifth, there is an active sense as well as a passive sense of membership. One's attachment to and identification with one's society are not only indicated by a passive sense of belonging, but also by an active sense of owning. When one says, "this is my country", what one means is usually more than the passive "I am physically located within this territory". By pronouncing "this is my country", one is also claiming that he owns something, that he owns the land, the people, the culture, etc., and that he has rights and obligations to all of them. This active attitude awards one a membership in its full sense. Simmons also noticed the problem of what it is to be "a member" in the full sense of the word. But he accounts for the full sense of membership in terms of one's having done things that tie one to his political society. These things, according to Simmons, must be deliberate acts like express consent, holding office, and voluntarily accepting benefits from the society, etc. This view is too strong to be plausible. We have already mentioned that membership is not a matter of achievement. For example, we don't think the
American hero, Nathan Hale, acquired his full membership of his society through his devotion of his life to his national independence. He had been a full member of his political society before his devotion, by his readiness to devote. A full sense of membership does not necessarily depend on performative acts, and in ordinary cases, dispositions or attitudes like that positive awareness of one’s relation to one’s society are sufficient to award one a full membership.

Some voluntarists like Beran only observe the passive aspect of membership. I have criticized Beran’s membership version of consent theory in chapter 3. On Beran’s view, one’s relation to his political society is totally passive: one accepts membership of a political obligation if one decides to live within its territory given the availability of other choices like immigration or succession. This view completely overlooks the vital fact that people usually think that they own their territory and it is their home. They are situated there with language, history, culture, customs, and values of their own. On the land, they created a community, which is of their own, which described metaphorically by Burke as resting on a contract “between
the living, the dead, and those who are yet to be born". They may have choices other than continuing to reside there. These choices though not impossible are hard and painful. The successful cases of abandoning their own culture and country and getting a new one are rare and incomplete. These cases can at most indicate a tiny possibility of the novel conception of political membership like Beran’s.

According to the local form of the transcendental argument, a major task that I need to perform is to interpret premise (8) in the last section “Our Political society exists” as a normatively positive fact. I believe that the interpretation will obtain if there is a fit between members and their society in five profiles. They include individuals’ self-identification with their political society and its pervasive culture; the relevance of individual well-being to that of other members and to the collective achievements of the society; membership as mutual recognition and as a transcendental good; the sense of community; and the full sense of membership. One problem should be noticed about the argument here. That is, whether in actual political societies this fit exists at all. There

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is a similar problem with the voluntarist theory, i.e., whether in actual states citizens have generally consented to obey their governments. If the fit, like consent, did not exist at all, my argument would be no longer a justification of the general notion of political obligation. Therefore, to complete my argument, I must give evidence to the existence of the fit under issue.

I have to concede that my evidence is at best sociological and anthropological. My simple claim is that it is the case that such fit exists in existing political societies in the world, though it has never been reached ideally. I conjecture that it is accomplished more fully and intensely in homogeneous single-nation states than in multi-nation and multi-culture states. The corresponding phenomenon is that people of the former state will feel more obligated to support their states than people of the latter do. For example, my argument will be more explanatory for Germans and Japanese than for Britons, further more explanatory than for Americans. However, even for a large and disparate nation-state like the United State, the kind of fit exists obviously. You can perceive it from (white, black, and other colors) Americans' fierce support of their national sports teams in the 1996 Olympic Games. They support their teams because their teams played
on behalf of them all and in their common name. American people took and will take the victory and honor as theirs. Despite the collective honor and pride, there are also collective shame and guilt. At any rate, the fit I invoke in my argument is typical of current political reality, though it might vary in degree in different political societies. A more detailed characterization of such a fit, e.g., whether and how many people of a state would approve it, must await empirical studies, which might be beyond the scope of a philosophical work like mine.

There is an obvious difficulty with my view. That is, it says nothing about those who think they are free from any attachment to the political society in which they are living. Let's call these people "political aliens". As far as I know, such kind of people exists in any polity, though their populations vary from case to case. Political cynics are typical political aliens. Political aliens may claim that they don't think the society is a worthy endeavor, that they don't believe they belong to any society, that they don't believe they share a common name with others,
etc. On my account, political obligations don't apply to them, because they are not thinking of the existence of the polity as normatively positive.

While the existence of political aliens seems to be a case against my account, I am not certain how big and serious it is. First, there is an empirical question how many people in a political society claim that they lack the sense of community. It is suitable to say that though there are some, they are relatively few. Second, it is worth asking how many of them seriously make the claim. Merely claiming to be alien to the community is not identical with deeply feeling of being so. Those who feel and act like most other people but allege that they deny any obligations lack sincerity, and are not worth discussing here. Third, it is likely that there are some people who might be called "political innocent". They feel indifferent to the political community, not for any philosophical or religious or ideological convictions, but because of lack of any of them. Some of them are undereducated, and some are socially disadvantaged. These people are not inherently political aliens. It is possible that they will form their conception of the political society and their places in it if their situation is improved. Finally, there are genuine political aliens. It is in their deep thoughts that they have been
detached from any political relationships. They acknowledge no political memberships or no allegiance to worldly authorities. As to this kind of people, I have to let them untouched by my account. Fortunately, cases like this are rare and exceptional in any polity. One thing that may give me some consolation is that moral and political theories can never reach a mathematical perfection. Moreover, there is no need to force them to do so.

If the interpretation of the existence of the political society as a normatively positive fact is successfully done, my interpretive argument will reach a more plausible account of political obligation. The conclusion is that the conceptual connection between political membership and political obligation appears to hold.
Chapter 7 Conclusion

In this final chapter, I shall do two things. One is to deal with the relation of my approach to those traditional liberal theories of political obligation, especially to the voluntarist approach. Another is to discuss some further problems with the conception of political obligation implied in my account.

I have argued throughout that none of the four major contemporary accounts of political obligation, which are respectively based on the voluntarist principle, the principles of natural duty, of gratitude, and of fairness, is sufficient to justify the general notion of political obligation. By rejecting these accounts, I do not mean to say the moral sources offered in these accounts are irrelevant to the problem of political obligation. Rather, I would like to remark that most of them are useful in the sense in which they contribute to individuals' assumption of political obligation in various ways. Traditional philosophy attempts to account for something in terms of notions like necessary and sufficient conditions. To the question "Can any of the principle of gratitude, the duty of justice, and the principle of fairness be necessary and
sufficient ground for political obligation?", the answer is definitely "No!", as I have argued. But I don't think that by this answer we mean that these sources are irrelevant to political obligation. I can give an analogy. For instance, we don't think fruits are irrelevant to health by claiming that fruits are neither necessary (some who don't eat fruits may still be healthy) nor sufficient (some who favor them may be unhealthy) for health. The moral sources like consent, gratitude, just institutions, and fairness can contribute to an account of political obligation in an organic way. These sources play their part in individuals' assessment of their political bonds to the political society through their sense of membership. Indeed, someone who thought he owes his state deep gratitude, or who thought his state is just, could feel more obligated to comply with the state than those who had no or less or weaker feelings of this kind. We also have more reason to think that people who have expressly consented to their state have acquired strong obligations, e.g., in the case of elected officials.

Because the voluntarist account is my main target, I should say a little bit more about how different my account is from the voluntarist one. Interestingly, my account also depends on a notion of consent. That is, when we regard the
existence of our political society as a normatively positive fact and hence regard our membership as one of our positive features, we in some sense "consent" to the situation we are in. And this kind of consent, on my interpretation, is the real source of our political obligation. However, my notion of consent does not render my account to the traditional voluntarist type. This is so for the following reasons. First, consent, as a positive assessment of a state of affairs, is different from consent as a voluntarily performative act. Theorists like Simmons require that acquiring obligations depend on performing discrete voluntary acts like promises, contracts, etc. I have shown that this is unnecessary. Second, traditional consent theories treat consent as going to the government. My position is that there is no such vertical consent in general and that the only kind of consent is the mutual recognition of membership. Neither residence nor political participation is the sign of consent to the government. Citizens obey the law or the government because they want to maintain the civic order of their political society. This position also implies that citizens have an obligation to disobey if the government fails to serve their end. Third, consent in my sense goes over time and is open to constant reflection on it. It refers to a process of
associating us with other members and regarding ourselves as being engaged in a joint conduct. Furthermore, the consent can also extend to a process of mutual expectations of each other’s conduct. In most cases, there are no datable events in personal history, which indicate the formation of such consent. Societies based on this kind of consent are genuine; individuals with it are morally mature. Understanding consent in this way can free us from the troubles classical consent theorists faced. We don’t need to find the datable obligation-generating acts in order to account for political obligation.

The notion of political obligation is an intractable one in contemporary liberal moral system. On the one hand, it is not as special as other familiar obligations of family, friends, and neighbors. On the other, it is not as universal as general moral duties. In my account, political obligation is associative in nature, like familial obligations. It is this nature of political obligation that raises the question of whether it conflicts with justice as moral impartiality. For example, MacIntyre argues that the impartiality entailed in political obligation is incompatible with the universal requirement of liberal
morality.\textsuperscript{1} We may explain away the seeming incompatibility through three angles. First, liberal morality recognizes a batch of partial attachments and commitments to particular people and things, which are part of what gives meanings to one’s life. Liberal moral theories don’t treat this kind of partiality as a moral vice that should be discarded. If one’s love of his family, friends, and neighbors is a sign of his virtue, why isn’t his much wider concern toward the whole society so? Almost in every state, those who have good performance in national services are more honorable than good parents and loyal friends. Second, it does not seem impossible that members of a political society, while acknowledging their special obligations to other members, agree on general principles. Nothing in my account entails that political obligation overrides other moral considerations and entails a blind loyalty to whatever the government commands. Third, there is an open issue about the lasting of current human associations or institutions like families and states. Logically speaking, there are three possibilities: they are permanent, they will be replaced by other kinds of human unions, and they will wither away. If it is the first, my account will stand as

\textsuperscript{1} MacIntyre, A., "Is Patriotism a Virtue?" in R. Beiner (ed.), \textit{Theorizing Citizenship}, State University of New York
it does. If it is the second, my account still works well because the same kind of transcendental argument applies to the new kinds of human unions. Marxists think of the third possibility as human destiny. It is beyond my scope to conjecture on what kind of life people will live in that situation. But I am sure that in that situation people don’t need to deal with the problem of political obligation because this kind of problem cannot be raised.

In addition to the seeming incompatibility of political obligation with universal morality, there are conflicts between different special obligations. The classical story of Antigone is a familiar case for such conflicts, in which Antigone had to choose between the duty to her family member and the duty to her state. It is not my aim to give a solution to this kind of conflict. Rather, I would like to offer two observations about the conflict at issue. First, different obligations emerge in different contexts. Political obligation does not so frequently enter into people’s ordinary life as universal morality and other obligations of family, friends, etc., do. People in everyday life are unconscious of it most the time. The awareness of political obligation happens only in a context in which people have to reflect on a deep and wide

background against which they are living, for example, in the context of national emergency. In cases like this, people have to think how they should act as citizens rather than as occupants of other roles. There are cases in which contexts overlap. For example, sometimes one has to think about what she should do both as a citizen and as a sister. But such cases are rare. Second, in many cases in which the conflict takes place, it is not very hard for an individual to make the choice. For example, one may think she should not break the traffic law even though she will be late in her brother’s wedding. For the hard case of Antigone, I seriously doubt that it is within our intellectual capacity to make philosophy specify once and for all a ranking of each of those conflicting obligations. It might be that some of our deep beliefs, feelings, commitments, moral sentiments are inherently disordered and contradict each other. If this is the case, I have to end up with a defense of the notion of political obligation that is definitely not ultimate.
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