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POLITICAL OBLIGATION AND THE PARTICULARITY REQUIREMENT

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In my view, the "particularity requirement" presents the most pressing obstacle to defending a plausible account of our duty to obey the law.[1] To see why, notice that approaches to political obligation can be divided into three groups: (1) transactional, (2) associative, and (3) natural duty.[2] Transactional accounts "derive the duty to obey the law from what has been done by or for those persons who are said to be bound by the duty." Theories of this kind are rightly rejected because when valid moral principles are invoked, they do not match the transactional history of citizens of actual states.[3] Associative approaches "derive the duty to obey the law from the legal or political identity or role of the one bound." These theories stumble as well either because they posit descriptively inaccurate accounts of citizenship or, more often, because they rely on suspect normative principles.[4] If transactional and associative theories are both inadequate, then the prospects of constructing a defensible account of political obligation hinge

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1. For the purposes of this paper, I use "duty," "obligation," and their cognates interchangeably. Moreover, I understand these duties and obligations to be merely prima facie, not absolute. Hence if I can establish that there is a moral duty to obey just laws of legitimate states, I do not thereby mean to rule out the possibility of permissible civil disobedience or perhaps other justified lawbreaking.

2. I borrow this trifold distinction and the subsequent definitions from A. John Simmons, *Civil Disobedience and the Duty to Obey the Law, in* A Companion to Applied Ethics 50–61 (R.G. Frey & Christopher Heath Wellman, eds., 2003).

3. The chief transactional theories feature consent, fairness, and gratitude. The problems with these approaches are explained in A. John Simmons, Moral Principles and Political Obligations (1979). Of course, not everyone believes that Simmons's criticisms are decisive. In response to Simmons, Harry Beran defends consent theory in his book, The Consent Theory of Political Obligation (1987); George Klosko seeks to repair the fairness principle in his text, The Principle of Fairness and Political Obligations (1992); and A.D.M. Walker defends gratitude as a source of political obligations in his essay, *Political Obligation and the Argument fqrom Gratitude,* 17 Phil. & Pub. Aff. 191–211 (1988).

4. The problems with associative approaches are outlined in my article, *Associative Allegiances and Political Obligations,* 23 Soc. Theory & Prac. 181–204 (1997); and in A. John Simmons, *Associative Political Obligations,* 106 Ethics 247–273 (1996).

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solely upon natural-duty approaches, those that "derive the duty to obey the law from a more inclusive moral duty to promote some more impartial value like justice or happiness." The most formidable challenge facing proponents of this approach is the particularity requirement, the stipulation that an adequate account of political obligation must explain one's duty to obey the laws of one's own state *in particular*.[5] Hence if one hopes to avoid philosophical anarchism, one must explain how a natural-duty theory can overcome this obstacle. I hope to do so here.

I divide this essay into four sections. First I explain natural-duty approaches and why they struggle with the particularity requirement. In the second section I review Jeremy Waldron's work on this topic. Next I offer my own account. And finally, I respond to a potential objection.

NATURAL-DUTY THEORY AND THE PARTICULARITY REQUIREMENT

For the purposes of this paper, let me follow John Simmons's tripartite distinction and stipulate that an agent's duty regarding a subject is natural just in case this duty need be grounded in neither a previous transaction nor a preexisting association between the agent and subject. Speaking colloquially, one might say that natural duties are those that "naturally" bind all of us or that "naturally" accompany being a moral agent. This stipulative definition will not please everyone (those who conceive of natural duties as derived from natural moral laws would likely be dissatisfied, for instance), but it is in keeping with the standard distinction between natural and artificial, where the latter is created by social institutions or is a product of art—human design or construction. More important, for our purposes, is that this definition is appropriate to the literature of political obligation insofar as it captures the differences among the distinct types of duties upon which the various transactional, associative, and natural-duty theories are based. Defined thus, one's duty not to wrongly harm others would be a paradigmatic example of a natural duty in that it does not rely for its existence on a transaction or special relationship between the agent and the potentially harmed subject.

Natural-duty accounts of political obligation are attractive because they promise to explain why *everyone* is obligated to obey the law without positing descriptively inaccurate interaction either among compatriots or between each citizen and her state. The two most prominent natural-duty theories have been utilitarianism and the natural duty to support just institutions.

5. As will become clear below, different theorists understand this requirement to be more or less strenuous. At the very least, it requires a specific obligation to obey the law; understood more ambitiously, it requires that one have special obligations to one's own state or compatriots; and at the extreme, it stipulates that a theory of political obligation can be theoretically adequate only if it explains all of our political responsibilities without invoking "extratheoretical" considerations.

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According to the former, each of us has a duty to promote overall well-being. This general directive is natural insofar as every moral agent is bound by it regardless of her transactional or associative history, and it entails a specific obligation to obey the law since political states require our communal support in order to perform their extremely beneficial functions.

Although few doubt that moral agents are required to promote welfare, this approach has trouble establishing a sufficiently tight correlation between what the law commands and what in fact maximally promotes well-being. The problem is that while obeying the law is typically conducive to promoting welfare, there are many instances in which one could clearly do more good either by openly practicing civil disobedience or by simply ignoring the law in order to attend to more pressing concerns (as one would if one withheld taxes in order to send the money to famine relief, for instance). Obeying the law does not always maximally promote well-being because even if one's political state were ideally designed to promote the welfare of its constituents, it does not follow that each constituent could do no more good than by obeying the state's laws. Indeed, an average citizen's behavior typically has no discernible effect upon a state's ability to perform its functions, so it stands to reason that anyone concerned with promoting well-being should concentrate on projects other than obeying the law where her actions might have more of a marginal effect. Because of this divergence between obedience to the law and the maximal promotion of overall well-being, few theorists still look to utilitarianism to ground an account of political obligation.[6]

With utilitarianism no longer touted in this arena, the dominant approach is now the natural duty to promote justice. Because justice is so important, it does not seem unreasonable to suppose that each of us has a natural duty to promote it. Again, however, problems emerge when one tries to show how this general directive requires one more specifically to obey the laws of one's own state. Even if one interprets the duty to promote justice as the requirement that we support just *institutions* (which is not implausible, given the considerable role institutions play in securing justice) and one assumes that contemporary states are just institutions (a more ambitious assumption, given that all states are nonconsensually coercive),[7] at least three important questions remain: (1) Of all the institutions that aspire to make the world a more just place, why are we specifically required to support political states? (2) Assuming that we must support political states,

6. Moreover, if one understands the natural duty to promote well-being less ambitiously (so that it does not involve maximization), then one would not be required specifically to obey the law because each individual would have discretion as to how she promoted happiness.

7. It might seem odd to allege that even substantively just, liberal-democratic governments are nonconsensually coercive, but one must remember that nonconsensual coercion is not necessarily illegitimate. Hence one can maintain that such governments are nonconsensually coercive (insofar as they do not ask for permission before imposing themselves everyone within their territorial borders) and still search for compelling moral grounds that legitimate this coercion.

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why must each of us support *our own* state in particular? (3) Finally, even if one is required to support one's own state, why must this support come in the form of allegiance to its laws?

To appreciate the force of these questions, consider the following scenario. Imagine that Maria is admirably concerned with making the world a more just place—so much so, in fact, that she becomes a doctor, moves to Africa, and works tirelessly to help sick children who, through no fault of their own, lack access to medicine that anyone reading this essay takes for granted. Given Maria's extraordinary sacrifices, why has she not more than fulfilled any natural duty to promote justice that anyone might plausibly posit? Why does it matter that Maria is not supporting an institution? If we could somehow establish that our obligation to promote justice is best understood as a duty to support just *institutions*, then let us suppose that Maria abandons her personal medical practice and joins Doctors Without Borders, an international organization dedicated to supplying emergency medical assistance all over the world. Now, one might question why Maria's service to Doctors Without Borders is not sufficient to discharge her duty to support just institutions. Why must she also support political institutions? Or, more accurately (since we insist only that those in Doctors Without Borders must also support political institutions, and not the other way around), what is it about political states that requires everyone to support them, *no matter how much they are doing to support nonpolitical institutions designed to make the world a more just place*? Moreover, assuming that Maria lives in Zimbabwe, what explains the requirement that she support the Zimbabwean government in particular? Given that her duty to support political states stems from a duty to promote justice, why is Maria neither (1) obligated only to support whichever just government she chooses; nor (2) specifically bound to support the most just government, perhaps Canada? Finally, even if we can establish that her duty to promote justice requires her to support the Zimbabwean government, why does she not have the discretion to determine the form her support will take? Why must Maria's allegiance be paid in the currency of obedience to the coercive commands of the state?

Perhaps each of these questions can ultimately be answered, but certainly merely positing a natural duty to support justice will not suffice. On the other hand, we would be well positioned to handle the particularity requirement if we began by assuming a natural duty either to *support all just institutions in precisely the form that they request to be supported* or, more specifically, to *obey the law*. The former is far too ambitious to be plausible, however, and the latter *assumes* rather than *explains* political obligation. This last point highlights the crucial challenge for any theorist of this stripe: to begin with a sufficiently modest, intuitively compelling natural duty and yet still show why the plausible general imperative requires one to perform the particularized chore of obeying the laws of one's own state. Before I suggest how this might be accomplished, it is worth examining the work Jeremy Waldron has already done on this subject.

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WALDRON'S ACCOUNT

The most celebrated attempt to restore the natural duty to support just institutions is Jeremy Waldron's article, "Special Ties and Natural Duties."[8] Because his arguments are designed specifically to counter a critique by John Simmons, let us begin by explaining the latter's dissatisfaction with natural-duty theory.

To avoid the unpalatable conclusion that each of us is bound to assist all of the world's just institutions, natural-duty theorists specify that we are bound to support only those just institutions that *apply* to us. In order for this approach to work, then, its advocates must satisfactorily explain what it means for an institution to "apply" to someone. It is here that Simmons presses his case. He presents a dilemma for natural-duty theorists in terms of "strong" and "weak" notions of application. He specifies that an institution applies to someone in the strong sense just in case one freely embraces it, whereas an institution can apply to someone weakly merely in virtue of being designed to apply to that person. Neither type of application will suffice, however, because insisting on the strong sense is tantamount to reintroducing the consent requirement, and settling for the weak sense of application allows for just institutions unilaterally to impose obligations on people. To demonstrate the implausibility of this latter option, Simmons constructs the following thought experiment:

> Imagine . . . that a group of benighted souls off in Montana organizes an "Institute for the Advancement of Philosophers," designed to help philosophers by disseminating papers, creating new job opportunities, offering special unemployment benefits, etc. Moreover, these benefits are distributed strictly according to the demands of justice; and they are made possible by the philosophers who pay "dues" to the Institute. . . . One day the Institute decides to expand its operations eastward, and I receive in the mail a request that I pay my dues. Does this institution "apply to me"? There is a very weak sense in which we might say that it does; it is an institution for philosophers and I am a philosopher (of sorts). I may even stand to benefit from its operations in the future. But am I *duty-bound* to pay my dues, in accordance with the "rules" of the Institute?[9]

Simmons presumes that we will join him in answering this last question negatively. If so, then we are committed to rejecting the principle that "one has a natural duty to support just institutions which apply to one" when "apply" is interpreted weakly. Hence the only form in which we accept the principle is if "apply" is construed in the strong sense, where one has freely embraced the institution. This restricted interpretation of the principle renders it impotent as an explanation of political obligation, however,

8. Jeremy Waldron, *Special Ties and Natural Duties,* 22 PHIL. & PUB. AFF. 3–30 (1993).
9. SIMMONS, MORAL PRINCIPLES, *supra* note 3, at 148.

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since (as theorists since Hume have emphasized) citizens are not given the opportunity freely to accept or reject their political states.

Assuming that Simmons is right about the limited options available to a natural-duty theorist, Waldron has only two avenues open to him: Either he can argue that, contrary to appearances, all citizens do in fact freely embrace their political states (and hence the strong sense of application does obtain in the case of just political institutions) or he can argue that the weak understanding of the application condition does not lead to the awkward conclusions Simmons suggests. Waldron takes the latter route.

Waldron suggests that Simmons exaggerates the unpalatability of accepting that an organization can morally impose itself on us because he misunderstands what the natural duty to support just institutions entails. Key to Waldron's argument is his distinction between organizations that merely operate justly and those that operate justly *as they promote justice*. He emphasizes that, because the moral steam behind the natural duty to support just institutions is generated by the importance of promoting justice, clearly this principle is meant to bind one to support only those organizations designed to promote justice. Moreover, once one appreciates this, one can see why endorsing the weak interpretation of the application condition need not saddle one with the awkward implications Simmons imagines. That is, one can insist that just institutions can nonconsensually impose duties on us and still deny that Simmons is morally required to pay his "dues" to the institute because this philosophical organization does not fall under the principle. Despite being internally just and also applying to Simmons, the institute cannot impose duties upon him because it is not designed to promote justice.

While Waldron's distinction between institutions that are merely internally just and those that also promote justice allows him to rebut Simmons's counterexample, it is not enough to save the approach. Problems remain because, even when one restricts the natural duty so that it requires one to support only those internally just institutions that promote justice and also apply to oneself, it remains too broad. To see why, consider the following scenario. Imagine that Ted Turner continues to accumulate wealth at a staggering rate and that, convinced of his natural duty to support just institutions, he faithfully obeys all U.S. laws. Moreover, in recognition of the fact that the United Nations is an internally just institution that promotes justice, he follows up his initial billion-dollar donation to the U.N. with several more, comparable gifts. So far, so good. But now imagine that he gradually becomes dissatisfied with the work that the U.S. and the U.N. are doing. The problem is not so much that they are failing to meet their goals, Turner's displeasure stems rather from their limited aims. In particular, justice clearly involves giving each person her due, and (while the U.N. does a superb job of preserving a just, international peace as well as providing international emergency relief, and the U.S. does an excellent job of securing its constituents' rights and giving duly convicted criminals their

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just deserts) there remains an element of justice that is sadly neglected; specifically, virtuous people are not getting what they deserve. That is to say, even if the U.N. sees to it that international war criminals are punished, and the U.S. visits appropriate evils on domestic outlaws, neither rewards virtuous people. Hence, convinced that giving good people what they deserve is every bit a matter of justice as is giving bad people their due, Turner decides that he has a natural duty to use a portion of his remaining wealth to create a national organization designed to recognize the virtuous behavior of U.S. citizens. Owing to the great resources at Turner's disposal and the lack of competition, it takes little time before Turner's Institute for the Advancement of Virtue becomes the salient organization of its type and is widely recognized as the definitive judge of U.S. citizens' good behavior.

After a while, however, the virtue institute begins to encounter difficulties. The problem is that after Time Warner's merger with AOL, the new company's board of directors strips Turner of power. Without Turner's business savvy, the company founders, its stock drops, and Turner's personal wealth evaporates. Finally, suppose that, without Turner's support, the virtue institute's future now hinges on whatever "dues" it can collect from those to whom it applies. Like others, I receive in the mail a request that I pay my dues. Does this institution "apply to me"? There is a very weak sense in which we might say that it does; it is an organization designed to give virtuous citizens of the U.S. their just rewards, and I live in the U.S. (and am a virtuous person, of sorts). I may even stand to benefit from its operations in the future. But am I *duty-bound* to pay my dues, in accordance with the "rules" of the institute?

Faced with this question, Waldron appears to have only three reasonable options: (1) he can insist that I have a natural duty to pay my dues; (2) he can allege that I have no such duty because the virtue institute does not promote justice; or (3) he can admit that the virtue institute both promotes justice and applies to me but claim that there is a morally relevant difference between the U.S. government and the virtue institute that explains why I am bound to support the former but not the latter. Of these, only (3) appears promising. First, it seems far-fetched to say that I have a duty to support the virtue institute, because while Turner was extremely nice to go to such lengths to reward good people, this project does not seem important enough to bind me nonconsensually. Second, it seems equally wrong to deny that justice includes rewarding good behavior. Societies may depend for their existence less on good people receiving their just deserts than on bad people getting their due, but this does not make the latter any more a matter of justice. Assuming that I am right on both counts, then it is incumbent upon Waldron to supply some other explanation for why the duty to support just institutions would not obtain in these imaginary circumstances.

Waldron might distinguish political states from organizations like the virtue institute in terms of their importance to their constituents. In fact,

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there is evidence that he would do so, because when explaining the importance of institutions that promote justice, he writes:

> The setting up of political institutions, Kant argued, is the way to avoid or mitigate the disagreements and conflicts that will otherwise inevitably arise even among people attempting in good faith to follow the dictates of justice. Because the stakes are so high, these conflicts always threaten to issue in violence. Such violence will involve death and suffering, and, as Thomas Hobbes famously pointed out, the anxiety and unpredictability that accompany it will make it difficult for anyone to pursue a decent life. Political institutions are capable of making things better in this regard: they can mediate and arbitrate disputes, they can develop practices of impartiality, and they can collect together sufficient force to uphold their determinations. There is therefore a clear moral interest in their establishment.[10]

Of course, the stakes are not nearly so high when it comes to the virtue institute. Many people might be disappointed if the institute were forced to close shop for lack of funds, but certainly no one need worry that violent conflicts would inevitably abound in its absence. Hence, since the virtue institute does not play the state's crucial role of securing peace, Waldron could plausibly claim that unlike political states, the institute does not have the standing to impose duties unilaterally upon those to whom it applies.

Although I am receptive to drawing this distinction, it is important to recognize how doing so undermines the natural-duty approach. Insisting that only just institutions *of sufficient importance* are owed our allegiance would be tantamount to abandoning the principle that each of us has a natural duty to support institutions that promote justice. This is because in suggesting that the avoidance of the state of nature is crucial to our duty to obey our political state, Waldron would be conceding that the mere fact that a state promotes justice is not enough. To appreciate this, consider another quote by Waldron:

> So to the extent that the avoidance of injustice is a moral imperative, the establishment of coordinating institutions is a moral imperative. In addition, there are the considerations about conflict that were also discussed earlier. The pursuit of justice in an institutional vacuum leads to conflict among persons who have different views about what justice requires, and that in turn issues in violence, suffering, and anxiety. These things are worth avoiding in themselves: they are additional evils (that is, evils over and above injustice itself) attendant on the conflicting efforts of a number of people to avoid the primary evils of injustice.[11]

Hence Waldron once again appears thrust upon the horns of a dilemma: If he insists that the "additional evils" of violence, suffering, and anxiety

10. Waldron, *supra* note 8, at 22.
11. *Id.*, at 28.

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are unnecessary to explain our duty to obey the law, then he is saddled with the awkward implication that we have a natural duty to pay our dues to the virtue institute. If he admits that we would have no duty to support political states unless they were essential to eliminating evils unrelated to injustice, on the other hand, then he is essentially denying the natural duty to support just institutions. I would urge Waldron to take this latter route. My own view is that the evils of the state of nature are paramount, and the best prospects for building a satisfactory account of our duty to obey the law come from highlighting the importance of avoiding these perils rather than the imperative to promote justice. Indeed, I suspect that the natural duty to support just institutions has appeared viable to so many only because, as Waldron recognizes, in the political instance there is a coincidence between organizations that promote justice and those that eliminate some of the most formidable obstacles to living rewarding lives. When the promotion of justice is disentangled from the elimination of the perils of the state of nature (as it is in the case of the virtue institute), it becomes clear that—even if each of us ought to promote justice—this value lacks the urgency necessary to empower others to create institutions that unilaterally bind us.

In the end, then, I remain unconvinced by Waldron's attempt to restore the natural duty to support just institutions. His distinction between institutions that are merely internally just and those that also promote justice allows him to sidestep Simmons's counterexample but it does not suffice to answer all objections. Even when repaired according to Waldron's specifications, the natural duty to support just institutions remains implausibly broad and hence leads to unacceptable conclusions.

A FRESH START

Because I suspect that the natural-duty-to-promote-justice account cannot be made to satisfy the particularity requirement, I think the best strategy for avoiding philosophical anarchism is to select an alternative natural duty upon which to build a plausible theory of political obligation. Elsewhere I have argued that the best prospects for developing such a theory hinge on samaritan duties, our duties to rescue others from peril when this assistance is not unreasonably costly.[12] In this section I will quickly recount this approach, explain why it struggles with the particularity requirement, and suggest how it might overcome this challenge.

Like the imperatives to promote happiness and justice, the requirement that we perform easy rescues is natural insofar as it binds everyone

12. I explain the samaritan theory of political obligation in *Toward a Liberal Theory of Political Obligation,* 111 ETHICS 735–759 (2001). Here my very brief recapitulation is meant only to introduce this view and show why it must contend with the particularity requirement.

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irrespective of their transactional and associative histories.[13] As such, it has the potential to explain why everyone is obligated to obey the law without importing either descriptively inaccurate claims about our transactional history or normatively implausible accounts of the bonds among compatriots. Samaritan duties are different from their two traditional natural-duty counterparts, however, in ways that give them more promise as a foundation for a theory of political obligation. The duty to rescue is preferable to the duty to promote happiness because the former is more narrowly focused and hence more modest than the latter. Because samaritan rescues constitute only a tiny subset of the cases in which one can promote the happiness of others, samaritan duties are considerably more restricted. This creates two advantages: One benefit is that, since samaritan duties are both less intrusive to the duty-bearer and so profoundly important to the beneficiary, they are much more intuitively compelling than the more general duty to promote happiness.

Another benefit of the restricted scope of samaritan duties is that they are less vulnerable to awkward counterexamples than the more expansive duty to promote happiness. Samaritan duties enjoy similar advantages over the natural duty to support justice; they are more compelling because, while few deny the value of justice, promoting it is not as urgent as rescuing others from peril. (Indeed, I consider it revealing that samaritan obligations are routinely invoked in a variety of contexts, but no one advanced a natural duty to support just institutions until political theorists became convinced of the inadequacy of transactional accounts of political obligation.) Hence if a connection can be established between samaritan duties and political obligation, the former may supply a better normative foundation for our duty to obey the law than the standard natural-duty candidates.

The relevance of samaritan duties to the question of political obligation becomes apparent once one considers two commonly accepted descriptive claims: (1) Life would necessarily be perilous were it not for the order supplied by political states; and (2) political states could not supply this order without our collective obedience to their laws. On the strength of these two descriptive premises and the plausibility of positing samaritan duties, I suggest that the best explanation of our duty to obey the law is as our fair share of the collective samaritan chore of rescuing others from the perils of the state of nature. Of course, the literature in this area is filled with theorists who have stressed the benefits of political order, but

13. In my view, samaritan duties stem from a benefit-to-others principle that is the mirror image of the harm-to-others principle. That is, while the harm principle forbids an agent from wrongly causing a second party to be worse off than she would be otherwise, the benefit principle forbids one from wrongly failing to make a second party better off than she would be otherwise, where one's failure to benefit another is *wrong* when the other person is sufficiently imperiled and one can rescue her at no unreasonable cost to oneself. Hence a samaritan duty to help a second party is natural in just the same way as one's duty not to harm others wrongly is, because neither depends for its existence upon a transaction or special relationship between the agent and second party.

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most have cited these benefits as evidence that we have (or *would* have or *should* have) consented to the state's imposition or that we have incurred a debt (of fairness or gratitude) to our state or compatriots. The samaritan theory diverges from all of these accounts by combining the two descriptive claims with an intuitively plausible natural duty, and hence it allows one to sidestep the difficulties that plague transactional approaches. Specifically, it allows us to posit a duty to obey the law for even those who have never agreed to do so and who would genuinely prefer to take their chances in the state of nature. Conceiving of our obedience to the law as a samaritan chore is crucial because it reveals that we are bound to obey political states not because our state benefits *us* but principally because it benefits *others,* namely, our compatriots. And once one appreciates that our duty to provide samaritan benefits to others is natural, it is easy to see why no transaction need be posited to explain our political obligations.

Notice, though, that our obedience to the law is different from most samaritan responsibilities insofar as it is a component of a larger communal project. Whereas stock samaritan duties standardly involve something like rescuing a drowning child from a pool or transporting an injured person stranded on the side of a road, our acts of obedience to the law would be unintelligible in the absence of a larger institution. In the political instance, it is the state as a whole rather than the individual citizen that supplies the samaritan benefits; while the state would not exist were it not for the cumulative sacrifices of its many constituents, no single individual's obedience to the law is necessary. Indeed, obedient or not, an average person's behavior typically has no discernible effect on her state's capacity to perform its functions. This is why I specify that one's obedience to the law is owed as one's *fair share* of a collective samaritan chore because fairness can explain one's duty to contribute to joint projects even when one's individual contribution will not affect the project's outcome.[14] But while the communal nature of political order requires that we invoke fairness, the principal normative premise remains samaritanism, the requirement that we perform easy rescues when others are sufficiently imperiled.

Although this brief recapitulation obviously omits many details, it is sufficient for our purposes here since it is enough to give a sense of the samaritan theory, why it is distinctive, and why—like other natural-duty approaches—it will have difficulty with the particularity requirement[15] The requirement

14. Notice that importing fairness in this way does not transform the account into a transactional theory, because the duty in question still does not depend upon something done by or for the agent.

15. Although this is not the place to revisit all of the potential criticisms of the samaritan approach, I would like briefly to respond to two of the most obvious objections: (1) Samaritan duties do not exist; and (2) even if they did, political obligations are far too demanding to qualify as merely samaritan. First, I must concede that I know of no deductive argument that irrefutably establishes the existence of samaritan duties. However, theorists such as Patricia Smith (who have no investment in vindicating the samaritan account of political obligation) have offered strong arguments on their behalf; *see* SMITH, LIBERALISM and AFFIRMATIVE OBLIGATION

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rears its head here because just as there are many ways to promote justice or happiness, there are myriad ways to be a good samaritan, and hence an explanation must be given as to why samaritanism requires one specifically to obey the laws of one's state. More to the point, given that samaritan responsibilities are owed to humans in general (as opposed to compatriots in particular), it is not clear why they ground an obligation to obey the laws of *one's own* state in particular. Why can one not discharge one's samaritan responsibilities by supporting a foreign state or even by helping to eliminate some apolitical peril, as one would by contributing to famine relief, for instance?[16] In response, I will argue that samaritan responsibilities can require specific actions and that the perils of the state of nature specifically require one to obey the laws of one's state.

The first thing to notice is that samaritan duties are quite unlike general charitable responsibilities because the former can correlate to the positive rights of others. These correlative rights are significant because it is the right-holder, not the duty-bearer, who enjoys whatever discretion accompanies the privileged position of dominion in a moral relationship. As a result, samaritan duties are typically perfect duties that require one to perform a specific action on behalf of a specific person at a specific time. To see this, recall the biblical parable from which samaritan duties derive their name. In Chapter 10 of the Book of Luke, we learn that first a priest and then a Levite passed by an injured stranger on the road from Jerusalem to Jericho before a gentleman from Samaria stopped to help the wounded traveler.

If we were to question the priest about his failure to perform this rescue, notice how odd it would sound for him to respond: "I thought about helping the stranger, but I decided instead to write a big check to famine relief once I returned to the office. I am a wealthy man, and I can contribute enough

(1998). Moreover, in *Liberalism, Samaritanism, and Political Legitimacy,* 25 PHIL. & PUB. AFF. 211–237 (1996), I argue that the costs of denying these duties is much higher than most recognize, because they are necessary to establish not only political obligation but also political legitimacy. Hence unless one posits samaritan duties, there is no way to justify the continued existence of political states. Second, in response to those who protest that political obligations are too onerous to be labeled samaritan, I note that political membership brings enormous benefits along with its costs. Hence once one subtracts the substantially greater benefits from the admittedly large costs of political membership, it becomes apparent why it is appropriate to label the *net* costs of citizenship in a legitimate state as not unreasonably costly. In a sense, the sacrifice of political obligation is analogous to a third party coercing you to trade your hundred-dollar bill for thirty ten-dollar bills: Your dominion is unquestionably compromised because you are forced—whether you would like to or not—to make this trade, but your losing the hundred-dollar bill can hardly be described as unreasonably costly when one considers that you are given three hundred dollars in return. (Please notice, however, that I do not allege that this transaction is fully justified merely because you are made better off; rather, as a champion of individual dominion I insist that—despite the not unreasonable claim that you are made better off by the transaction—the nonconsensual coercion could be justified only if taking your hundred-dollar bill were essential to rescue others from peril. This last requirement, of course, is what separates the samaritan account of political obligation from its traditional benefit counterpart.)

16. I am indebted to A. John Simmons for impressing upon me that the samaritan account must contend with the particularity requirement.

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money to save ten lives that would otherwise be lost. I can understand why the imperiled stranger was disappointed that I left him to die, but I simply preferred to discharge my samaritan responsibilities in this other manner." Most of us would balk at this construal of the situation.[17] Clearly, the priest misunderstands the nature of samaritan responsibilities; whatever charitable gift he might make to famine relief would not extinguish his duty to the wounded traveler. A large donation might relieve the priest from having to make other generally charitable contributions, but the only thing that would free the priest from his samaritan responsibility to the injured stranger would be if the latter waived his positive right to assistance. As the biblical case demonstrates, then, there is nothing curious about samaritan responsibilities requiring one to perform a specific course of action. Given this, a skeptic of the samaritan theory of political obligation must give a special explanation as to why samaritan political responsibilities cannot generate a specific duty to obey the laws of one's country.

At this point, a critic might allege that a citizen can have discretion over her political duties in a way that the priest cannot because only the priest's action is *necessary*. That is, whereas medical attention is required to save the injured traveler's life, a citizen's obedience to the law is not necessary to save her compatriots from the state of nature. Given that an individual's contribution is not essential to the state's ability to perform its functions, why is a citizen not morally at liberty to withhold her taxes and to contribute her money to, say, famine relief instead?

Responding to this objection requires noting that the only satisfactory answer to the dangers of anarchy is political stability. Political regimes are necessary because peace is in practice possible only when all territorially contiguous people follow a common set of rules and appeal to a common authority to adjudicate conflicts under these rules, and no common power would emerge in the absence of uniform coercion. The reason this solution raises complications for theories of political obligation is because it is a communal or social response. In particular, no single person can effectively secure peace in the state of nature; only the combined efforts of many people can do this. However, the mere fact that no single individual's contribution to this communal effort is necessary should not mislead us into believing that no one has a duty to perform a specific action. As emphasized above, considerations of fairness can explain one's duty to contribute to a group project even when one's contribution has no discernible effect upon the project as a whole. Given this, we should not conclude that a citizen enjoys

17. If we would accept the priest's response, it is because, on reflection, we doubt that the biblical scenario actually qualifies as a samaritan duty—perhaps because we consider the requisite assistance unreasonably costly. Those with this worry should amend the story so that (1) all the priest need do is lift the injured person from a proverbial pond; and that (2) the priest knows there will be no one else traveling along this path. (This necessity of making these changes illustrates that a *locus classicus* need not be a paradigm case.)

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the discretion of whether or not to obey the laws of her state merely because this obedience is not necessary for her state's ability to perform its functions.

Against this reply, a persistent critic might protest that the samaritan theory of political obligation must still allow unacceptable levels of discretion since it cannot explain why a citizen is bound to obey *her* government in particular. Because samaritan duties arise independently of any contract, bond, or relationship, a foreigner can have a samaritan right against one just as easily as a compatriot can. In addition, all of the world's people are equally vulnerable to the perils of political instability. The apparent implication of the combination of these two facts is that one has the discretion to choose which country will be the recipient of one's contribution to political stability. Hence the samaritan account of a citizen's political obligations, this critic complains, is analogous to a swimmer who encounters many drowning babies, all of whom have a samaritan right that this swimmer save *one* of them, but none of whom has a claim that the swimmer save *her* in particular.[18] There is no moral difference, in other words, between a citizen of Canada paying her taxes and withholding these taxes and sending a comparable "contribution" to Mexico. In fact, if Mexico's government is less stable than Canada's, then samaritanism might even *require* a Canadian to do so.

To see why this objection is misguided, notice that while a state would not collapse if one of its constituents chooses a foreign recipient as the beneficiary of her political sacrifices, no political regime can perform the requisite political functions if it allows all of its citizens complete discretion to choose political beneficiaries. As a result, one can enjoy the discretion as to which country to support only against a backdrop in which others are denied this same discretion. Because fairness prohibits this type of free riding upon others, it entails that no one is morally free to exercise this type of discretion. The crucial point here is that *an integral part of the burden of our political responsibilities is having so little control over the content of what is required.* For many of us, it is a continual source of frustration that we have virtually no say in the form that our political contribution must take, but that is an unavoidable consequence of our playing a role in this particular collective project, because in the political instance, individual impotence is required for the group effort to succeed.

In the end, even if not all samaritan obligations require a specific action, the perils of the state of nature create the perfect duty to obey the laws of one's state because the problems of the state of nature can be solved only via social coordination. To emphasize: Political instability does not just create a *big* problem, it creates a dire *coordination* problem. That is to say, the perils of a lawless environment can be eliminated only by virtually everyone foregoing their individual discretion in favor of the laws of their state, and hence not only must people make sacrifices, but they also may not as

18. Joel Feinberg discusses this samaritan case involving multiple drowning babies in his HARM TO OTHERS 144–150 (1984).

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individuals choose the form these sacrifices will take. (Or, more accurately, part of the sacrifice is having virtually no say in determining how one must sacrifice.) Under these circumstances, to reserve for oneself the discretion that cannot be enjoyed by everyone—even if one is doing other good deeds—is unfairly to make an exception for oneself. When discretion itself is a good of which others abstain as part of their share of the solution to the political problem, fairness requires that you not help yourself to a portion of it. In short, once one appreciates both the demands of fairness and the fact that discretion is itself a good whose universal enjoyment is inconsistent with political stability, one recognizes how the samaritan account can satisfy the particularity requirement.

A POTENTIAL OBJECTION

Even if I have been able to show why our samaritan responsibilities require us to obey the law, one might protest that I have not fully satisfied the particularity requirement. Following Simmons, a critic might insist that natural-duty theorists must do more than merely demonstrate how a general duty can require one, in particular, to obey the laws of one's state; we must also supply a "principle of political obligation which binds the citizen to one *particular* state above all others, namely that state in which he is a citizen."[19] The idea behind this more demanding construal of the particularity requirement is that in addition to our general duty to obey the law, we have a special responsibility to our own country and compatriots. For instance, while we might have minimal duties to foreigners that require us to help them survive natural disasters, we are thought to have much more robust redistributive responsibilities to fellow citizens. Similarly, while ex-patriots should obey the laws of their host country, they might also have a responsibility to serve on behalf of their own country in a war between their mother country and the country in which they currently reside. Because samaritan responsibilities are owed equally toward all humans (as opposed to merely toward compatriots), it appears that any account based on samaritan duties could not explain these additional commitments and hence would not be able fully to match our understanding of our political obligations.

It strikes me that there is some truth to this objection: It is admittedly not clear how samaritanism could accommodate these intuitions. But even if samaritanism alone cannot account for all of our political responsibilities, there is no reason why it could not be combined with other considerations that do explain them. The basic idea here is that once samaritan-justified states are in place, their existence may change the moral landscape; there may be morally relevant features of the relationships among compatriots or between citizens and their states that in turn explain our additional political

19. Simmons, Moral Principles, *supra* note 3, at 31–32.

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obligations. (If justice requires that states be governed democratically, for instance, then the demands of democracy might explain additional political obligations.)[20]

Elsewhere I have offered multiple explanations (consistent with a samaritan account of political legitimacy) for our special, more robust redistributive responsibilities to our compatriots, so here I will restrict my attention to Simmons's claim that an adequate theory of political obligation must explain our special responsibility to support "our own" political regimes.[21] After quickly considering and rejecting one candidate account of our patriotic duties, I will argue that a theory of political obligation need not fulfill this "requirement" to be satisfactory.

The most fashionable way to account for the special responsibility to one's country capitalizes on the way in which citizens identify with, or feel an allegiance to, our own political regimes. Albert Einstein famously exclaimed: "It is beyond me to keep secret my international orientation. The state to which I belong as a citizen does not play the least role in my spiritual life; I regard allegiance to a government as a business matter, somewhat like the relationship with a life insurance company."[22] Einstein, however, is clearly anomalous in this regard; most of us identify strongly with our compatriots and feel a deep allegiance to our own country. If this psychological connection could explain our special political duties, then there is no reason why it could not be conjoined with samaritan duties to create a two-tiered theory which meets all of our pretheoretic expectations.

I do not favor constructing this particular type of multiple-layered approach, though, because I am skeptical that considerations of psychological identification can satisfactorily explain our special responsibilities. Indeed, associativism strikes me as no better equipped to explain these extra duties than to serve as a freestanding theory of political obligation. Put succinctly, associativists face the following dilemma: Either they must (1) offer some plausible explanation as to why our felt attachments toward compatriots and political institutions generate special obligations; or they must (2) allege that no such explanation is necessary because psychological identification is a morally basic property (like promising, for instance). These two options constitute a dilemma because regarding (1), no one, to my knowledge, has been able to bridge the considerable divide between the reasonable *descriptive* claim that we are more willing to sacrifice on behalf of those with whom we identify and the contested *normative* conclusion that we are

20. Pauline Kleingeld, for instance, explores the possibility of grounding some of our special political responsibilities in democracy in her article, *Kantian Patriotism,* 29 PHIL. & PUB. AFF. 313–341 (2000).

21. I offer an account of the special responsibilities that compatriots have to one another in *Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun "My"?* 110 ETHICS 537–562 (2000). John Rawls also explains the more robust distributive obligations thought to exist among fellow citizens in THE LAW OF PEOPLES (1999), and Charles R. Beitz criticizes this account in *Rawls's* Law of Peoples, 110 ETHICS 669–696 (2000).

22. Quoted in LOUIS L. SNYDER, ENCYCLOPEDIA OF NATIONALISM ix (1977).

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morally bound to do so; and regarding (2), treating identification as morally basic saddles associativists with unpalatable implications regarding racism, sexism, and other brands of morally noxious chauvinism. Hence I am less optimistic than many about drawing upon our psychological attachments to explain our special political obligations.

Given that I reject associativism and know of no other adequate supplement capable of buttressing the samaritan account, it seems best to consider the viability of samaritanism if one grants, *arguendo*, that embracing this theory will not allow one to satisfy the most demanding form of Simmons's particularity requirement. To see that such a concession is far from fatal, consider my parents: My mother is English, my father is American, and they divide their years roughly in half, spending summers in England and winters in the United States. Both have retained their original citizenship, and each conscientiously obeys the laws of whichever country she or he is in. (In fact, I marvel at—and worry about—their ability always to drive on the appropriate side of the road.) If my arguments to this point have been on target, then samaritanism can account for their moral duties to do all of this. What it appears unable to explain, however, is the duty of each to give special support to her or his own country. If the U.S. declared war on England while they were in Oxford, for instance, it is not clear how samaritanism could explain Father's duty to support the U.S. war effort.[23]

Rather than argue that samaritanism (or some other, compatible principle) can explain this duty, I would contend that no such obligation exists. I do not deny that many would pretheoretically allege that Father would have a duty to support the U.S. war effort, but I think that positing this duty does not stand up to scrutiny. In particular, I suspect that advocates of this special duty commit the same error as many attracted to associativism: They conflate a plausible descriptive premise with an erroneous moral conclusion. That is, it certainly seems that most people would be naturally inclined to sacrifice for their own country when it is at war, and it also seems to be the case that most people would be uncomfortable with someone who is indifferent as to whether or not her country was militarily victorious, but neither of these descriptive premises establishes the moral conclusion that each person has a special duty to support the war efforts of her country of citizenship.[24] (Of course, there might be extreme circumstances in which

23. I concoct this example involving a duty to support one's own country's military efforts in light of Simmons's comments about war and the particularity requirement. For instance, when explaining his rejection of the natural duty to support just institutions, he writes: "This again seems clearest in the event of war, where visiting aliens are not supposed by anyone to be bound to participate in the country's military efforts. In fact, this intuition is given voice in the principle of international law which specifies that aliens have no specifically 'political' duties toward their host countries, but are bound only to conform to the 'social order' of those countries"; SIMMONS, MORAL PRINCIPLES *supra* note 3, at 34 n. I should add that, not surprisingly, Simmons never claims that we have special political duties to support our own country's military campaigns.

24. I also understand that we might impugn someone's character (for being disloyal, perhaps) if she claimed a deep national allegiance and then abandoned her country when it

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Father would be obligated to support a U.S. war effort, but then, under analogous circumstances, he would also be obligated to assist a British military campaign.)

Hence ultimately I think that samaritanism should not be criticized for its inability to explain these special military duties because I am not convinced that such duties are genuine. It is important to recognize, however, that the samaritan account does not force me to take this stand. Instead, I might remain agnostic about these military responsibilities and respond disjunctively: Either (1) no one can marshal strong arguments in support of these special political duties; or (2) cogent arguments can be constructed to justify them. Neither disjunct threatens advocates of the samaritan account, however, because no one should object to our denying these duties if (1) is the case; and we can help ourselves to whichever arguments are discovered if (2) is realized. Hence whether or not these (or any other) special political duties are determined to be genuine, their absence or presence need cause no concern for defenders of samaritanism.

In fairness to those who press this most demanding construal of the particularity requirement, I should acknowledge that not everyone would be satisfied with this disjunctive response. In particular, one might object to a theorist merely helping herself piecemeal to whatever supplementary arguments might be offered for various special political duties. Implicit in this objection is a standard of theoretical adequacy. This objector presumes that an account of political obligation can be theoretically adequate only if it can fully explain all of our political obligations *on its own*. Hence if these special military duties are genuine and the samaritan account cannot account for them, a critic of this stripe would reject this theory as theoretically inadequate.

In response, let me quickly say two things. First of all, it is unclear what can be said on behalf of this condition of theoretical adequacy. Theoretical simplicity and argumentative elegance are certainly *desirable*, but it seems odd to *require* that we avoid pluralistic or otherwise "messy" explanations. Second, one must bear in mind the poor prospects of other theories before rejecting samaritanism for failing to live up to such a high standard of theoretical adequacy. If an alternative theory could explain both our duty to obey the law and our special political duties such as supporting our own country's military campaigns, then samaritanism could be jettisoned without cost. Since no other theory appears capable of adequately explaining even our duty to obey the law, however, our choices are restricted to either settling for a samaritan view, which cannot explain every special political obligation pretheoretically thought to exist, or enduring philosophical anarchism. Given these limited options, the choice seems clear: We may regret that our most promising theory of political obligation cannot deliver in one fell

needed her most, but this admittedly moral assessment is an agent-appraisal (concerning *character*), rather than an act-appraisal (concerning political *duties*).

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swoop everything that we would like, but this is certainly more consistent with our pretheoretic convictions than supposing that there is no duty to obey the law. Hence even if one supposes that expatriates have special military duties to support their country of citizenship (which I question), samaritanism should not be dismissed for its inability to explain them. In sum, when the particularity requirement is stretched to such extremes, it becomes at most a *desideratum* rather than a requirement, and since no other theory appears able to explain even our core political duty of obeying the law, it seems ridiculous to dismiss samaritanism for its failure fully to realize this desideratum.

CONCLUSION

I began by assuming that transactional and associative theories of political obligation are all irreparably flawed and hence that natural-duty approaches offer the only hope of avoiding philosophical anarchism. After explaining why the traditional natural-duty accounts are undone by the particularity requirement, I offered samaritan duties as a plausible natural duty capable of explaining our obligation to obey the law. Samaritanism is admittedly incapable of explaining every special political obligation that theorists are wont to posit, but this is no cause for concern because some of these putative responsibilities are not genuine, and those that are can be explained by other moral considerations perfectly compatible with samaritanism. If all of this is right, then satisfying the particularity requirement is the key to developing an adequate theory of political obligation, and the samaritan account should be embraced for its unique ability to do so.

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