

# **Identity and Political Obligation**

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## **1. Introduction**

### **1.1 Research question and objectives**

On 11 April 2002, up to one million Venezuelans marched on the presidential palace of Miraflores against the then president of the country, Hugo Chávez, where the latter's own supporters were holding a rally. In the midst of the chaos of the confrontation, shots were fired, and up to 19 casualties were eventually reported. In response to the situation, Chávez ordered the implementation of Plan Ávila, a military contingency plan for restoring order in case of civil unrest. The plan involved deployment of the army – as opposed to the police or National Guard – for control of the population, something which the constitution expressly prohibited. A section of the constitution also specified that an order from a superior officer (including the president) that violated the constitution was void.

In order to implement the plan, however, Chávez had to give the order to the head of the CUFAN (Unified Command of the National Forces), General Manuel Rosendo, as only he was authorized to execute it. Rosendo, however, refused to give the order. Despite this, the commander of the Army's Third division, Jorge García Carneiro, started to mobilize the tanks at Fort Tiuna in Caracas in order to execute the plan regardless. Before the mobilization could be completed, the head of the army, General Efraín Vásquez Velasco arrived at the fort, cancelled the order, had the tanks recalled, and had Carneiro detained.

The events that unfolded thereafter saw the collapse of the Chávez regime, the latter's detention by top military officers, and the establishment of an interim government in what is now called the 2002 Venezuelan coup d'état. While this state of affairs was not to last, and Chávez ultimately returned to the presidency, this incident had a profound impact on the development of my perception of political legitimacy and obedience. It marked a turning point in the turbulent transformation that the country has been undergoing since the election of Hugo Chávez in 1998, and as such was part of a process that has had a formative influence on the development of my conception of the political.

Apart from these considerations, this series of events furnishes an interesting case of the problem of political obligation in recent history. Was Rosendo obliged to follow the president's orders and implement Plan Ávila? Was Vásquez Velasco justified in countermanding a unit obeying the president's orders and detaining its head officer? Was the unconstitutionality of the order sufficient reason to consider it void? The answers to these questions, which relate to a concrete historical case, depend on the answers that we would

give to more general questions regarding political obligation. Why should we obey? When are we no longer obligated to obey? Who are we obligated to obey? Who is obligated to obey? What are our obligations?

The purpose of this dissertation is to address the problem of political obligation, a problem that revolves precisely around these questions regarding the locus, limits, content, and normativity of political obedience. This I hope to achieve by putting forward an alternative to existing approaches to it by showing how a constitutional conception of identity can be used to address the questions that lie at its center. While this effort will build on the foundation laid by existing approaches, such as the associative approach of John Horton, it will also depart from them in significant respects due to substantial problems that have been highlighted by their critics.

## **2. Associative theories of political obligation: Literature Review**

### **2.1. Identity and political obligation: Existing enquiries on the subject**

Contemporary debate around the problem of political obligation has settled around a handful of different approaches: theories from consent, gratitude, fair play, natural duty, and association. Existing identity-based approaches to political obligation are for the most part associative in nature, and they form the main antecedent to the present dissertation. Of these, perhaps amongst the most notable are the works of John Horton, Yael Tamir, and David Miller.

Before proceeding, however, it might be useful to produce an outline of the features that distinguish associative approaches from their alternatives. In this regard, a useful guide might be found in the work of their staunch critic, John Simmons. According to him (Simmons, 2001, pp. 66-70), we can count the following traits as distinctive of associative theories: anti-voluntarism, the authority of shared moral experience, and the normative independence of local practice, henceforth referred to as the NIT (normative independence thesis).

Anti-voluntarism consists of the notion that obligations, and this includes political ones, can be accrued without acts of volition or consent. The NIT is defined by Simmons as the claim that ‘local associative obligations, including political obligations, are internally justified or self-justified, that local practice can independently generate moral obligations’ (Simmons, 2001, p. 70). This means that the (political) obligations derive their binding force from the social practice to which they attach (e.g. the practice of citizenship). The authority of shared moral experience refers to the claim that justifications of political obligation must match our existing moral perceptions.

Of particular relevance to the three theorists we will now discuss, however, is the appeal to the identity argument as the grounds for political obligation. The identity argument affirms that membership in associations, including political ones, is partially constitutive of our identities, and therefore, any obligations generated by these obtain their force from the imperative of maintaining the intelligibility of these identities. This argument embodies some of the most characteristic features of the associative approach, such as the notion that obligations can be acquired non-voluntarily, and its tendency to remain grounded on widespread moral perceptions such as our sense of identification with our polities. I will now move on to discussion of the associative theorists mentioned above.

In *Citizenship and National Identity*, David Miller identifies national identity as the key principle of a republican model of citizenship. According to him, citizens can strive for justice and the common good only when they share a strong sense of national identity.

In her *Liberal Nationalism*, Yael Tami discusses the interdependence of personal identity and socio-cultural embeddedness.

The most elaborate and influential discussion of identity as a source of political obligation in the associative tradition can be found in John Horton's *Political Obligation*. In presenting an identity-based argument for political obligation, I will focus on Horton's account.

## **2.2. Horton's classic approach to political obligation**

Let us now consider in some detail one of the most influential associative accounts in contemporary thought on political obligation, that of John Horton. The following sections will focus both on his work and the criticism it has received. It should be noted before proceeding that Horton's original account, articulated in the 1992 edition of *Political Obligation*, was subsequently revised in the 2010 edition in order to address certain criticisms. This section will provide an exposition of the classic approach.

Horton's main argument for political obligation places the source of their normativity in political membership. Membership does not need to be voluntary or justified by any extrinsic moral principle to generate this normativity. Said normativity arises from the fact that membership in a polity is partly constitutive of our identities, and thus fundamental to our moral being, so that rather than stand in need of justification, it is justificatory and generates obligations. We are obligated to obey the polity because that is what it means to be a member of it, and said membership is fundamental to our sense of who we are.

Horton shows how obligation can be genuine without being voluntary by basing himself on an investigation of the analogy between the family and the polity. According to him, our relationship to parents and siblings forms a clear example of a context in which obligations are acquired which do not require consent, in contrast with promises and contracts, which only generate obligations if consent is given.

This also means that these obligations are not in need of an appeal to any basic moral principles for their justification, as the very fact that these relationships make us who we are subjects us to the obligations that derive from them. Membership in a family is constitutive of our identities. He contends that familial obligations cannot be explained in terms of basic

principles such as fairness or gratitude, and that the relationship itself justifies the corresponding obligations.

While, to Horton, familial and political relations (and thus obligations) are not analogous in all of their aspects, they are with regards to these three features we have just examined. To summarize these: neither require moral theoretical justification, they are both partly constitutive of our identity, and we are born into both, which means they are not voluntary. However, Horton considers many important disanalogies as well, such as the impersonal nature of political relations, and the place of coercion in the latter.

An important aspect of Horton's account that we have already mentioned but bears emphasizing is the idea that political obligation derives its normativity from the role it plays in constituting our identity. To this end, Horton deploys two arguments.

The first argument proceeds by exploring the nature of the relationship between a citizen and the polity, a relationship that Horton claims is one of political obligation, and does this on the basis of the following quote from Rush Rhees:

"The 'relation' seems to be an internal one, not like my relation to the park when I am in it. When I am not in the park, this will make no difference to the park or to me. But we cannot think of the state without thinking of individual citizens or vice-versa. But neither is 'the relation of the individual to the state' at all like 'the relation of the individual wolf to the pack' or 'the relation of the individual to the crowd'. These could be understood as quasi-physical relations and the relation of the individual to the state is not that. It has rather to be studied, apparently, in terms of obligation'. (Rhees, 2014, pp. 81-2).

Horton seems to endorse this view of the relationship, which we might perhaps classify as a mutually constitutive one. From this we can gather that Horton considers that the importance of membership to us derives primarily from the fact that it is at least partially constitutive of our identity.

The second argument that Horton uses to support his claim about the normativity of identity refers to our shared intuitions about the matter. By way of examples, he shows the many ways in which we identify with a polity and come to call it our own. Some of these examples illustrate how we tend to form a sense of authorship and responsibility for the actions of our polity, such as the guilt felt by many Americans for the Vietnam War, or Polish director's

Krzysztof Kieslowski's sense of responsibility for the Polish state's practice of the death penalty, of which he disapproved. This allows Horton to complement his abstract argument with the outline of a phenomenology of political identity.

To Horton, the sense of identification is as inherent to our phenomenology as political obligation itself is, a fact that is relevant to our acknowledgement of the latter. This consideration cuts to the core of Horton's classic theory of political obligation, as he considers that the appropriateness and intelligibility of political obligation can be demonstrated in great part by investigating this phenomenology.

The aspects of Horton's investigation we have examined so far largely concern the force of political obligation, rather than its content. The latter can only be determined, according to Horton, with reference to the particular political and social framework from which it derives, and without that, his approach can only offer general guidelines. Nevertheless, it could be said that he does provide said guidelines in the form of the following two points.

The first point regards the notion that political obligation entails taking into account the welfare of the polity. Horton argues that to incur political obligations need not entail following all laws or commands issued by the government but does require taking into account the interests and welfare of the polity when acting. He further cautions that this need not entail any substantive conception of what the welfare of the polity must be. This means that the content of political obligation is bound to vary dramatically from one polity to the other, as the nature of the obligations that constitute acting for the welfare of the country are dependent on the specific features of the polity in question, specifically the conception of welfare operative in it.

The second point can be found in his discussion of the authority of the government of a country. According to Horton, it is part of the content of political obligation that we must recognize the government's right to rule, and the legitimacy of its laws. Horton specifies, however, that this does not necessitate either the recognition of a universal standard of what legitimate government is, or the assumption that citizens must always follow the law. Indeed, he emphasizes that political obligation may even require citizens to disobey the government and the laws in cases in which obedience would lead to undermining the welfare of the polity. Apart from that, this acknowledgement also plays a key role in the process through which we identify with the polity.



We have provided an outline of Horton's classic theory of political obligation. However, the best summation that we can offer of Horton's position, is his own:

"In summary, [...] political obligation is conceptually connected to membership of a particular polity; that membership of a polity is not usually a matter of choice or voluntary commitment; that neither membership nor the corresponding obligations normally require further moral justification; that the connection between membership and obligation is mediated through a sense of (partial) identification with the political community; that political obligation requires taking account of the interests and welfare of one's polity; that political obligation is particularly closely connected to acknowledging the authority of the law and government of one's polity which is the kernel of the terms of political association" (Horton, 1992, pp. 169-170)

We will now call back to mind the Venezuelan example of disobedience of authority described in the introduction, and consider how we could evaluate it given the theoretical framework given to us by Horton.

In that case, military officers disobeyed and acted against the orders of the head of state on the grounds that said orders went against the constitution. From the point of view of Horton's theory, did they fail to discharge a valid obligation, or were the orders disobeyed null? In order to answer this question we must recall that ultimately, for Horton, the normativity of political obligation comes from the fact that it constitutes our identity. In this case, we could imagine the officers who chose to disobey as acting out of integrity, thinking it their duty both as patriots and officers to avoid partaking in, or even permitting, an act that was against the values of the nation, as enshrined in the constitution. In this case, we might consider that the act of disobedience was warranted, and the orders were indeed null.

Nevertheless, we should keep in mind that the crucial step in this argument happens when we identify the command issued as clearly incompatible with the constitution. In this case, this was simple enough to do, as the constitution emphatically and explicitly prohibits the use of the army against civilians, which is precisely what was ordered. Nevertheless, one could easily see certain complications adding ambiguity to the formula. For example, in cases in which the constitution is ambiguous, an organ of government might have to interpret what it entails in at any given situation. Furthermore, there are cases of emergency in which the government might have to act outside the constitution in a prudential manner in order to

secure the welfare of the nation. The problem in such cases then becomes what the values of the nation actually are. Who are we, and what represents us? Is it the government? The constitution? As interpreted by whom? Horton's approach so far seems to have conceived of this identity as essentially contingent, which means that we are left with few theoretical tools for dealing with this question.

There is at least one such tool, however, and it is found in Horton's notion that political obligation requires us to disobey in cases in which obedience to authority undermines the welfare of the polity. By this criterion, we might well be able to conclude that disobedience in the case at hand was very much justified

### **2.3. Problems with Horton's classic approach**

Perhaps the most formidable contemporary critic of associative accounts of political obligation is John Simmons. In his *Justification and legitimacy: essays on rights and obligations* (Simmons, 2001), Simmons puts forward criticism of diverse strands of associative thought, including what he dubs the 'communitarian' branch of it, where he includes Horton's approach.

Simmons identifies two theses that are key to this approach: the identity argument and the NIT. We shall now examine his critique of them.

Let's start with his critique of the identity argument. According to him, the argument consists of the notion that membership in a political community is partially constitutive of our identities, and thus the obligations that derive from it gain their normativity from the fact that we sustain our personal intelligibility by discharging them. This argument, then, posits that the source of normativity is to be found in identity.

Before proceeding, we should note that the identity argument can in fact be framed in many ways. In *Rethinking Political Obligation*, Dorota Mokrosinska frames (Mokrosinska, 2012, p. 76-77) the issue of the normativity of identity in the form of a Euthyphro dilemma. The dilemma states that either we discharge the obligations produced by roles that are constitutive of our identity because there are reasons to do so, or because maintaining our identity requires it. The former horn of the dilemma is dubbed the reflective approach to the normativity of identity, while the latter is called the constructive approach. Both of them are considered problematic by Mokrosinska, but she proposes a possible solution to the dilemma and to the question of the normativity of identity that we shall examine in more detail later.

Even though Simmons does not make this explicit distinction, the problems he raises affect both the constructive and reflective approaches. The aspect of his critique that addresses the constructive approach centers around what we will henceforth call the bad identities problem. The bad identities problem arises when attempts to ground normativity on identity are confronted with the fact that group identities exist and have existed that included amongst their practices unjust or oppressive conventions and procedures. The specific example given by Simmons is that of a gestapo agent: he argues that membership in gestapo is not a sufficient basis for making its concomitant obligations, such as torturing suspects, normative. This argument makes it clear that it is possible to conceive of situations in which obligations generated by certain identities can fail to be normative, with the implication that these do not constitute the only, or indeed the primary, source of normativity.

As we mentioned, this case against the identity argument is primarily effective against a constructive understanding of identity. As Mokrosinska points out:

“On the ‘constructive’ interpretation of the argument from identity, identity has the capacity to infuse everything it encounters in itself with normative force: from genes to wicked social practices. The material it encounters, biological or social, is essentially arbitrary, contingent: it results from the accidents of our biological constitution and social circumstances. By infusing whatever it finds in itself with reason-giving force it elevates the dictates of the arbitrary, contingent or morally wicked material to the status of moral duty. Surely the idea that the dictates of whatever contingent material we encounter in ourselves should become normatively binding strikes us as implausible. But can the associativists avoid this conclusion? In order to block it, they would have to differentiate between constitutive social practices that can determine the content of special duties and those that cannot. [...] But in order to qualify the argument from identity in this way, they would have to invoke other considerations than their being *ours/ us*. They would have to invoke the reasons why certain constitutive social practices or biological determinants should be given the form of obligation and others not. However, in doing so, they would be admitting that it is not identity that does the work in the argument but those other reasons, which would make the argument collapse in the same way as the first, ‘reflective’, proposal above.” (Mokrosinska, 2012, p. 80)

However, Simmons also raises a point that casts doubt on the viability of the reflective version of the identity argument as well. His argument can be framed in the following way: a constructive conception of identity is unavailable to Horton due to the bad identities problem, thus the only way that identity can be normative in Horton's scheme is if it derives its normativity from local practice via the NIT. However, if we require a moral standard, apart from identity, to ground the latter's normativity – in other words, if we use a reflective model of the normativity of identity - we must conclude that the appeal to identity is superfluous, as it is not the true basis of normativity.

A further point raised by Simmons against the identity argument is that, in the absence of a valid general justification of political obligations, any sense of obligation to the associations we identify with should be dismissed as a kind of false consciousness.

We have seen then, that Simmons's critique raises serious problems for the identity argument, conceived both in the reflective and constructive forms. We shall now examine his criticisms of the NIT.

As we have seen, the NIT consists in the claim that local associations can generate moral obligations or obligations that are self-justifying. In this context, the family is often posited as the kind of relationship that could be considered self-justifying in this manner.

Before proceeding, it would be useful to quote Simmons's clarification of what he takes to be the main factors that lead us to deny the NIT, as it defines the vectors through which his critique advances:

“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 this: 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 of 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 by those subject to it is required for the associative obligations imposed by 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.” (Simmons, 2001, pp. 85-86)

Simmons considers that two points that can be made against the NIT, and two that can be made in its favor. Amongst the former, we find the fact of the existence of unjust practices. Simmons develops a critique from this point by highlighting the notion that there must always be moral constraints on what associations can legitimize. This 'bad practices' argument, in fact, proceeds in analogy to the bad identities argument we examined above. Like identity, local practice can be oppressive or pernicious in nature. In the same way that the existence of bad identities led Simmons to reject the normativity of constructive identity, this leads him to conclude that the kind of obligations that are justified by local practice can only be of a weak or secondary kind. The reason for this is that both the argument from constructive identity and that from local practice place the source of normativity in contingent factors, such as what the sense of identification or the social circumstances happen to entail at a given time. Therefore, I will henceforth treat this 'bad practices' problem as interchangeable with the bad identities problem for our present purposes.

Another point against the NIT cited by Simmons is the notion of the universalism of moral judgements. If universalism is implicit in moral judgements, this would seem to undermine the credence of the idea that local practices can serve as a source of normativity. This is another important point that we will later return to when we examine Horton's response to it.

Simmons also addresses one of the points often raised in favor of the NIT, the fact that we assign accountability on the basis of roles, which we will henceforth refer to as the argument from role-based obligations. Simmons shows that upon closer examination of this point, however, it does not, in fact, support the NIT at all:

"We may confidently ascribe to parents obligations of care, tuition, and support precisely because we believe that all parents everywhere, in all times, have owed this to their children. These natural parental obligations simply (and not coincidentally) have the same content as some of the associative obligations assigned to parents by some local practices. And those who feel no need to argue for or justify such ascriptions of parental obligation, those who find such arguments "unnecessary and misleading, " may believe (or vaguely feel) that some statements about parental obligations are simply self-evidently true - not that (some or all) local practices are normatively independent.

The fact that we ascribe certain role obligations without feeling the need for further justification, then , does little to demonstrate, or even to support, the

contention that most of us believe local practices and institutions to be normatively independent, (let alone the further contention that they are normatively independent, that shared moral experience is authoritative on this matter).”(Simmons, 2001, p. 86 )

The conclusion from this is that the practice of ascribing to certain agents obligations that befit certain roles without direct appeal to any higher moral principle is not fundamentally an appeal not to local practice but to a sense of natural duty that is universal. This notion of the universality of roles turns our intuition of role-based obligations into an argument against the NIT rather than for it.

Before proceeding, we will again recall the Venezuelan case used in the introduction to illustrate the problem of political obligation and consider the implications of Simmons’s critique of associative political obligation in our evaluation of it.

Given Simmons’s critique, we might consider that patriotic integrity and loyalty to the constitution would not figure as prominent factors legitimizing disobedience, as they would be based on the sense of identification. Yet, in a way, Simmons’s argument makes the actions of these officers seem more justifiable, given the context. After all, in this case the president gave the order of employing military force – including tanks - against unarmed civilian protesters, which could be seen as a violation of human rights and gravely immoral. Given these circumstances, universal morality would provide no reason to obey these orders, indeed, disobeying them would here seem the correct course of action, provided, of course, that one accepts that they are indeed inhumane.

We have examined some of the points brought up by Simmons against the identity argument and the NIT. Some of these points constitute serious obstacles to these theses, and in the next section we will proceed to examine some of the counter-arguments brought up by Horton in his response to Simmons.

#### **2.4. Associative theory modified: Horton 8 years later**

In the updated 2010 edition of his *Political Obligation* (Horton, 2010), Horton attempts to address some of the problems examined in the previous section, and in particular, Simmons’s critiques of the identity argument and the NIT. I shall now examine Horton’s response to these, starting with the first.

We saw in the previous section that Simmons's critiques the identity argument by employing two contentions, the first is what we have dubbed the bad identities argument and the second is the notion that any sense of obligation derived exclusively from identity should be treated as a kind of false consciousness.

Horton responds to the objection from false consciousness by arguing that due to how widespread the sense of obligation based on identification and socialization is, it makes more sense to operate on the presumption of its validity rather than the other way around, as Simmons does. Horton does concede, however, that ultimately reasons could be brought up to reject certain obligations and identifications, and that the identity argument is not enough on its own to ground political obligation, which is why Horton believes it should be deployed along with the NIT:

“In sum, Simmons's objection to locating political obligation in a sense of identity are less than compelling. He is probably right that the identity argument, if shorn of *all* ethical content, would not be sufficient to explain political obligation. However, while for analytical purposes he distinguishes this strategy from the normative independence thesis, both arguments can be, and typically are, deployed in a mutually supportive relationship. If, then, the normative independence thesis can also be defended against Simmons's criticisms, understanding political obligations in terms of associative obligations may turn out to be markedly resilient than he allows.” (Horton, 2010, p. 158)

As we have seen, the nature of the identity argument depends on the conception of identity used, whether it is constructive or reflective. Horton strives to reconcile the identity argument with the NIT, hence only two ways of formulating the identity argument are available to him, either through a constructive conception of identity, or through a reflective conception of identity in which the value reflected is in fact the NIT. As we see in the above quote, Horton takes the latter approach, which means we need not examine the bad identities problem in this connection, as Simmons implicitly directs it against the constructive understanding of identity. As we will briefly see, however, Horton will nevertheless have to respond to the bad identities problem, as it is deployed against the NIT, to which we will now turn.

Recall that we have been treating Simmons's argument from wicked social practices as analogous to the bad identities problem. With this in mind, we may sum up Simmons's

argument against the NIT as including the following: the bad identities problem, the thesis of the universality of morality and that of the universality of role-based obligations. Horton responds to the first two of these only, and the fact that he does not address the third will turn out to be crucial, as we shall see later. We will start with Horton's response the bad identities problem.

Horton's solution to the bad identities problem relies on the notion that it is possible to maintain that only valuable identities can generate obligations while rejecting the idea that the standard of value used must also be taken to be the source of the normativity of these obligations. Indeed, Horton offers his own 'Hobbesian' notion of what such a viable standard of value could be in what he calls the "generic good of order and security" (Horton, 2010, p. 177) Only those communities that are able to ensure this good generate valid obligations, but this does not imply that the normativity of these obligations derives from those goods.

To elaborate on this point, Horton argues that the value that justifies an association need not be considered as external to that relationship in a way that renders the latter purely instrumental. Instead, he argues that in many cases, the relations themselves are part of the value they realize, which in Horton's case is that of order and security. Indeed, Horton goes further than that by pointing out that the question of normative independence itself, as framed by Simmons, is put in excessively stark terms, e.g. either local practice is completely independent of universal moral considerations, or it is entirely instrumental to an 'external' end. Instead of accepting Simmons's dichotomy, Horton proposes that:

"The claim of normative independence is not the claim that local practices should bear *no* relationship to, or be completely unconstrained by, any general moral values. [...] Rather, the thesis should be understood as, at least in part, proposing that local practices give these values a particular substance or content, a particular shape, ordering and meaning within a specific social or institutional setting or way of life."(Horton, 2010, p. 162)

So while Horton concedes that only universally valuable communities can generate political obligations, he does not consider this a problem for the kind of associative theory he is proposing.

We will now turn to Horton's response to the argument against the NIT from the universality of morality. He argues that even if we accept that universality is an inherent feature of morality – something that Horton does not consider necessary for his theory to work – what



he calls ‘weak’ forms of universalism are in fact compatible with the NIT. He cites the following description of the theory of natural duty from Kent Greenawalt as an example of the kind of universalism that is compatible with NIT:

“A natural duty is one that arises because one is a person or a member of a society or because one occupies some narrower status, such as being a parent. Because such duties do not depend on voluntary actions that bring one within their reach, their application is potentially broader than duties based on promises or fair play. In contrast with utilitarianism, theories of natural duty may explain why obedience to law is a genuine duty, not just a question of morally preferable action, and why obedience may be called for though no untoward consequences will flow from disobedience.” (Greenawalt, 1989, p. 159)

Put this way, it seems that Horton’s notion of weak universalism is a restatement of an argument that Simmons had previously identified, and which we had dubbed the argument from role-based obligations in section 2.3. In other words, associative obligations are general: they are generated by the assumption of certain roles to which they correspond.

However, as we have seen, Simmons offers a compelling argument against the idea that role-based obligations are in fact a compelling reason to adopt the NIT. To recapitulate this point, we do not, in fact, ascribe to parents all of the practices that are prescribed by local convention, and there are cases of extant practice that we would not consider normative. Instead, we ascribe to parents only obligations of care and tuition that are implicitly universal and self-evident. What this means for weak universalism is that, ultimately, it is not sufficiently unlike strong universalism to support the NIT. The lesson we may draw from it regards the distinctness of obligations derived from roles, but not their independence.

This is not, however, the only aspect of Horton’s revised edition that is unsatisfactory in grounding the NIT. His response to the bad identities argument also runs into some issues.

*In Obligation by Association? A Reply to John Horton*; Richard Vernon provides a critique of Horton’s approach (Vernon, 2007). Perhaps the most important part of Vernon’s critique is to be found when he invokes Charles Taylor’s distinction between undermining and overriding ethical considerations (Taylor, 1967, pp. 25-57). According to Taylor, overriding happens when mutually exclusive courses of action are considered as having moral value, but one of them is considered as having more value than the other. One of the examples used by Vernon

in this case is that of the good Samaritan who forgoes his duty to attend to an appointment in order to help an accident victim. Both courses of action have value, but the greater value of helping the victim recommends it as the ethical choice.

On the other hand, we have cases of undermining, in which the ethical value of an otherwise praiseworthy course of action is nullified by the end purpose to which it is oriented. The example he gives is that of a man who promises to murder someone. The obligatory force of the promise becomes void once it is given a malicious orientation. The choice of fulfilling the promise of murdering someone is not considered a good that is merely lesser to choosing not to commit murder, but an active wrong, because fulfilling the promise *is* to commit the wrongful act. Vernon argues that in such cases judgements are not discrete but mutually influential: our evaluation of one of the actions has a direct effect on our evaluation of the other, and not merely on our evaluation of the optimal course of action.

According to Vernon, the ethical relationship between associative obligations and universal goods is one of undermining: if following through with one's obligation to the association implies malicious acts – like for example, in the case of a mafioso conducting a hit for his family – then the force of the associative obligation becomes undermined by the very nature of the end it has been fixed towards. In other words, Vernon restates the challenge that the bad identities problem presents for Horton's position.

However, the most relevant part of Vernon's critique comes when he considers the possible retort that associative obligations could retain their moral force in certain cases, while admitting that in some others this force is undermined. As we saw during our discussion of Horton's "Hobbesian" approach to the value of communities, this is his very own solution to the bad identities problem in the revised edition of his book, as he claims that even though associative obligations can be cancelled (indeed, undermined) by being directed towards inappropriate ends, he nevertheless maintains that the importance of the universal values is limited to a negative role of nullifying bad obligations rather than justifying valid ones.

As Vernon points out, however, this is problematic, because when the effectiveness of an undermining is accepted, there is an implicit creation of a general class of obligations that are valid and distinct from the invalid ones. However, in order to determine which obligations fall into one of these and which fall into the other we must invoke an universal, non-associative standard, because both the valid and non-valid obligations share the potential endorsement of our association as a trait. By invoking such a standard, however, we have effectively

transferred the force of obligation from association to whatever the universal standard of our choice is. In other words, adjudicative standards cannot be deployed selectively, if they are invoked to invalidate, they must also be accepted as the source of validation.

If we apply this line of argument to Horton's appeal to the generic good of order and security, we can point out that it leads us to divide extant and possible polities and practices into those that are conducive to order and security and those that are not, we can then use this categorization to deny the normativity of the local practices of extant polities that are not conducive to this good. But the important part lies in how, in the process of making this categorization, we implicitly affirm the normativity of those polities and practices that are conducive to order and security by means of this very same standard, thus explaining their normativity through it.

The implication of this is that Horton's response to the bad identities argument through his contention that universal values can constrain local practice without compromising the latter's normative independence is not satisfactory.

In resume, Horton is ultimately unable to adequately respond to Simmons's three main lines of criticism of the NIT, that from the bad identities problem, that from the universality of morality, and that from the universality of role-based obligations. On the other hand, it might be possible to salvage the identity argument, as Simmons's critique of it only rebuts the constructive and reflective versions of it, and we have yet to examine another, to which we will now turn.

### **3. Towards an alternative theory of political obligation**

The following dissertation will put forward an identity-based approach to political obligation which finds its roots in the associative approach of the thinkers mentioned above, while attempting to overcome existing criticisms of it by combining it with Christine Korsgaard's alternative to the reflective and constructive models of identity: the constitutional model of identity (Korsgaard, 2009). This revision of the associative argument from identity has been suggested by Mokrosinska (2012, pp. 83-89). In this thesis I will expand on that idea, and the resulting approach is best described as an associative and natural duty hybrid, since Korsgaard's constitutional model of identity also implies an appeal to universal moral foundations of agency rooted in the normativity of human nature.

This work will depart from the identity-based associative theories we have just discussed by eschewing the NIT and taking an approach that places the universal human good inherent to our identities at the root of the normativity of political obligation, and even assign to it a key role in fixing the essential content of political obligation. However, associative elements will not be dismissed entirely; like Horton, this thesis assigns them a role in fixing the locus of obligation, and to some extent even in fixing some aspects of its content. Like Horton's, this approach recognizes that the universal and particular aspects of obligation are not external to each other, but with the difference that it posits the latter as *flowing* from the former.

#### **3.1. The constitutional model of identity**

In *Self-constitution: Agency, identity, and integrity*, Christine Korsgaard sets out an alternative to the constructive and reflective models of identity that allows us to present an identity-based argument for political obligation. Korsgaard bases this model on the ethical frameworks of Aristotle and Kant, which means she makes use of specific categorizations and language that we will clarify as needed. We shall now offer an outline of the model.

There are two main aspects of this model that are relevant to our discussion, that of the normativity of identity, and that of the structure of identity. The first pertains to what is it that makes the preservation of our identity an ethical imperative, while latter corresponds to Korsgaard's schematization of human identity itself.

### 3.1.1. The normativity of identity

We will start with the normativity of identity. Korsgaard employs what we will henceforth call the constitutive approach to normativity. This involves the employment of constitutive standards in determining what is normative for a given thing.

The thesis undergirding constitutive normativity is Aristotelian in origin and it posits that things are composites of form and matter, and that their goodness lies in the extent to which they fulfill their distinctive form. What this means in concrete cases relates to that thing's success in fulfilling its distinctive activity. As Korsgaard puts it:

“According to Aristotle, what makes an object the kind of object that it is—what gives it its identity—is what it does, its *ergon*: its purpose, function, or characteristic activity. This is clearest in the case of artifacts, which are obviously functionally defined. An artifact has both a form and a matter. The matter is the material, the stuff or the parts, from which the artifact is made. The form of the artifact is its functional arrangement or teleological organization. That is, it is the arrangement of the matter or of the parts which enables the object to serve its function, to do whatever it does that makes it the kind of thing that it is.” (Korsgaard, 2009, p. 27)

The constitutivity of a thing, then, is composed of both its final and formal cause, to use Aristotle's terminology, and it is what allows us to identify distinct entities, as opposed to what Aristotle calls *mere heaps*. It also allows us to make normative judgements about that thing:

“At the same time, it is the teleological organization or form of the object that supports normative judgments about it. A house with cracks in the walls is less good at keeping the weather out, less good at sheltering, and therefore is a less good house. The ancient metaphysical thesis of the identification of the real with the good follows immediately from this conception, for this kind of badness eventually shades off into *literal* disintegration. A house with enough cracks in the walls will crumble, and cease to be a house altogether: it will disintegrate back into a *mere heap* of boards and plaster and bricks.” (Korsgaard, 2009, p. 28)

We must ask at this point then, what is the constitutive standard of a person? Korsgaard sheds light on this question through a nuanced discussion of the Aristotelian concept of teleology (Korsgaard, 2009, pp. 35-41). Korsgaard follows Aristotle in distinguishing three types of life, vegetative, animal, and rational. In her discussion of the last of these we finally come to the core of her theory of moral normativity:

“The third form of life, distinctive of human beings, or as I will say, of persons, is the life of rational activity. Rational activity, as I have already suggested, is essentially a form of self-conscious activity, and it is this that leads to the construction of personal identity. Thus personhood is quite literally a form of life, and being a person, like being a living thing, is being engaged in an activity of self-constitution. In other words, what it is to be a person, or a rational agent, is just to be engaged in the activity of constantly making yourself into a person—just as what it is to be a giraffe is to be engaged in the activity constantly making yourself into a giraffe”. (Korsgaard, 2009, p. 42)

A person, then, is a living being. A living being, or organism, is one that is constantly making itself into what it is. Persons are rational organisms. Therefore, persons are beings that are constantly making themselves into rational organisms. It follows that persons are morally obligated to seek what actualizes their vital and rational capacities and avoid what frustrates them. To summarize, our form as human beings consists of organic rationality, which entails that to constitute ourselves as rational organisms is precisely the meaning of being human, which is also the normative standard of our goodness. We can also put it in the form of the following categorical imperative: a person must want to lead a good life, understood as a rational, healthy life. This is the constitutive standard of human identity that lies at the foundation of human normativity.

We see then, that constitutive normativity is of a quite different kind to the kinds of normativity previously associated with identity, because it posits that the goodness of a thing and its identity are one and the same.

One might ask, however, how does this differ from the constructive approach to the normativity of identity, after all, according to it, normativity is also determined by identity. As we saw, this particular kind of normativity, when applied to political obligation, turned out to be vulnerable to the bad identities problem. The reason is that identity in that case was implicitly understood as the aggregate of extant – and thus contingent - tendencies in place in

a given community, which, naturally, could conceivably come to include unsavory practices. In other words, identity was understood as a *mere heap*, a cluster of properties.

The constitutive approach to normativity is similar insofar as it could be said to derive normativity from identity, however, the crucial difference lies in the fact that, as we have seen, it understands identity differently. Instead of conceiving valid identities as clusters of properties, it understands them as defined by forms that cannot be reduced either to one or many of their derived properties. In the case of human beings, the form consists of rational animality, therefore an individual's identity, in order to be normative, must always fulfill the standards of rationality and animality in order to be normative. An individual – or for that matter a collective – identity that implies a deprivation of our rational and vital faculties would not be normative. Hence, we see that this perspective, unlike the constructive approach to identity, is entirely compatible with the universality of morality that is required to overcome the bad identities problem.

But if this is the case then, is this approach now not more like the reflective one? The reflective approach faced the problem relating to the redundancy of appealing to identity when the real standard of normativity was in fact something else.

The constitutive nature of normativity avoids this problem because the source of value is not external to the means of its attainment. The finality of realizing our humanity consists precisely in the exercise of those capacities that make us human, which means that the activities and institutions that realize value are themselves part of that value, and not external to it. As Korsgaard puts it:

“It is important to notice the complex role that teleological organization plays with respect to the giraffe's activities and actions. The giraffe's actions are both dictated by, and preservative of, her giraffeness. A good giraffe action, such as nibbling the tender green leaves at the tops of the trees, keeps the giraffe going, for it provides the specific nutrients needed to constantly restore and refurbish her giraffeness through the nutritive processes. Yet the giraffe's action is one to which she is prompted by instincts resulting *from* her giraffe nature. [...] And this means that, strictly speaking, being a giraffe is not a state, but rather an activity. Being a giraffe is *doing* something: a giraffe is, quite essentially, an entity that is always *making* herself into a giraffe. In fact, the *entity* that I just mentioned is derivative, arrived at only by an artificial

freezing of the observer's mental frame, for nothing that stops working at being a giraffe, that stops making herself into a giraffe, will remain a giraffe for long. So to be a giraffe is simply to engage in the activity of constantly making yourself into a giraffe: this is what a giraffe's life consists in."

(Korsgaard, 2009, pp. 35-36)

Through the insight that being is a kind of activity, we can see that the kind of teleology implicit in constitutivity does not entail the externalization of means and ends that renders not only reflective normativity but also traditional teleological approaches less plausible.

### **3.1.2. The structure of identity**

We will now proceed to Korsgaard's account of the structure of human identity. The best place to start regarding the latter is her distinction between human identity – which we may also call formal - and practical identity. Practical identity, or personal identity, is constituted by those aspects of our identity through which we relate to the world around us, such as our social and political roles. Our identities as citizens, parents, and professionals are examples of practical identities, or more accurately, of roles that form part of our overall practical identity. Meanwhile, formal identity consists of our identity as human beings, what we have already examined and called the form of humanity, and which we have further specified as rational animality.

The way these two tiers of identity are related in Korsgaard's account is hierarchical, one of them is dependent on the other. It is from human identity that practical identity draws its normativity:

"I argued [in *The Sources of Normativity*] that the value of our contingent forms of identity depends on the value of our human identity, which gives us a reason for having those contingent forms of identity." (Korsgaard, 2009, p. 211)

Since formal identity takes priority in this scheme, we will focus most of this section on how Korsgaard conceptualizes it. She dubs her account of the structure of human identity the Constitutional Model, and it is largely based on Plato's analogy of the city and the soul. She follows Plato in identifying reason, spirit (thymos), and appetite as the three parts of the human soul, and structures their interplay in the following manner:



“So the function of appetite is to propose and obey, of reason to rule, and of spirit to ensure that reason’s decisions get carried out. The parts of the soul are not—at least not when the soul is in order contenders for power, but rather each has its own work to do, and together they make collective action—that is to say, action—possible.” (Korsgaard, 2009, p. 147)

Korsgaard also emphasizes that even though reason is assigned primacy in this scheme, it is not because reason is identified with the person as such, making her appetites and spiritedness somehow external to her, rather, the person it is identified with her constitution as a whole. To understand why primacy is assigned to reason we need to examine the process of deliberation.

The process of deliberation is here seen as a process of agential unification: in deliberating towards an action, we constitute our character. Following Plato, Korsgaard describes the structure of deliberation in the following way: a proposal is made by our appetites, our reason examines whether to act on it or not, and our spiritedness, or thymos, then executes reason’s directive. For rational animals, it is the rational faculty that determines action, as we only exercise our proper agency when we behave deliberately.

Personal constitution then, is partially defined by the manner in which deliberation is structured. This is in keeping with Plato’s analogy of city and the soul, as political constitutions, too, have as one of their main tasks the setting up of a deliberative system including petitional, legislative, and executive mechanisms.

One last aspect of the structure of formal identity should be examined before proceeding however, and that is virtue. Plato famously posited the four virtues as temperance, courage, wisdom, and justice. Each of these virtues, except for justice, corresponds to one of the parts of the soul: temperance and appetite, courage and spiritedness, reason and wisdom. Justice corresponds to the soul as a whole and it is the state in which each of the soul’s parts does its proper activity in the proper way. Virtue then, consists in each part of our human identity conducting its allotted task in the process of self-constitution through deliberation. A properly structured human identity, then, is also a virtuous or just one.

### **3.2. The universality of constitutive normativity**

We will now turn to the question of the universality of constitutive normativity. If we accept the premise that the value of practical identity is dependent on that of human identity, we are led to the conclusion that the normativity of social and political roles – which includes that of

political obligation - that hinges on said value is itself dependent on a normativity of human identity. The latter is, theoretically, the same for all human beings, namely the imperative to actualize ourselves as rational animals. This would make constitutive normativity universalist in nature. The reason is that practical identity is contingent in a way that formal identity is not:

“However it goes, reasoned or arbitrary, chosen or merely the product of circumstance, the sorts of identities [practical identities] I am talking about remain contingent in this sense: whether you treat them as a source of reasons and obligations is up to you. If you continue to endorse the reasons the identity presents to you, and observe the obligations it imposes on you, then it’s you. Leaving morality aside for the moment—because there may be moral reasons for not doing the things I am about to describe—you can walk out even on a factually grounded identity like being a certain person’s child or a certain nation’s citizen, dismissing the reasons and obligations that it gives rise to, because you just don’t identify yourself with that role. Then it’s not a form of *practical* identity anymore: not a description under which you value yourself.” (Korsgaard, 2009, pp. 23)

The complete contingency of practical identities is only averted via their subordination to formal identity:

“But there is a reason not to abandon all of our identities. The reason is given by the problem I started out from: the human plight. We must act, and we need reasons in order to act. And unless there are *some* principles with which we identify we will have no reasons to act. Every human being must make himself into someone in particular, in order to have reasons to act and to live. Carving out a personal identity for which we are responsible is one of the inescapable tasks of human life.” (Korsgaard, 2009, pp. 23-24)

We can derive our obligation to maintain our practical identities from the following hypothetical imperative: if we wish to have good lives as rational animals, we must actualize our rational and animal capacities. Since those capacities include sociality and political organization, these should be considered not only as natural means towards leading good lives, but also partially constitutive of what leading a good life is. However, this hypothetical

imperative is dependent on the assumption that we do indeed wish to lead good lives, which, as we have seen, is a categorical imperative derived from our universal human identity.

This is a point that Korsgaard put particular emphasis on in *The Sources of Normativity* in her argument against communitarianism:

“Once the communitarian sees himself this way, his particular ties and commitments will remain normative for him only if this more fundamental conception of his identity is one which he can see as normative as well. A further stretch of reflection requires a further stretch of endorsement. So he must endorse this new view of his identity. He is an animal that needs to live in community, and he now takes *this* to be a normative identity. He treats it as a source of reasons, for he argues that it matters that he gets what he needs.

And this further stretch of endorsement is exactly what happens. Someone who is moved to urge the value of *having* particular ties and commitments has discovered that part of their normativity comes from the fact that human beings need to have them. He urges that our lives are meaningless without them. That is not a reason that *springs from* one of his own particular ties and commitments. It is a plea on behalf of all human beings, which he makes because he now identifies in a certain way with us all. And that means that he is no longer immersed in a normative world of particular ties and commitments. Philosophical reflection does not leave everything just where it was.” (Korsgaard, 1996, p. 119)

From this we can conclude that constitutive normativity cannot be reconciled with normative paradigms that place local practice as an independent source of normativity, such as the NIT. However, as we have seen, this approach also differs from those such as those based on normativity of reflective identity in that it does not conceive of practical identities, along with the values and practices that they entail, as deriving their value from merely reflecting universal values, but also play a role in constituting those values. The best way to describe the status of obligations deriving from practical identity would be that they are distinct, yet not independent.

This also does not entail that the reasons cited for action need to explicit refer to our formal identities, they certainly can make exclusive reference to practical identities (e.g. citing reasons for action such as “because he is my brother”) as the grounds of particular acts. It

does mean, however, that we must be at least implicitly committed to the idea that we must act and we must actualize our rational agency in order to intelligibly give these reasons.

#### **4. An identity-based approach to political obligation**

Recall that earlier in our discussion we established that enquiring into the nature of political obligation must take into account its primary dimensions: the normativity, limits, content, and locus of political obligation. We will now examine each in turn.

##### **4.1. Normativity**

Our treatment of this point will be brief, as our approach to the normativity of political obligation is an extension of our account of the normativity of identity. The normativity of political obligation is derived from the imperative to maintain our identities. Political obligation flows from our membership in a polity, that membership in turn is a part of our practical identity which, as we have seen is necessary for our constitution as rational agents.

##### **4.2. Locus**

The question of the locus of political obligation includes both that of the agency obligated and that being owed the obligation. We have also seen, through Horton's quote of Rhees, that the relationship between these two loci is one of mutual constitutivity. This is consistent with the constitutive approach to normativity we recently laid out, and thus will form the starting point in our discussion of the locus of political obligation.

Before proceeding, we should recall our examination of constitutive normativity, and that the way to determine a constitutive standard consists of enquiring on the *ergon*, or distinctive activity, of a thing, in order to determine the circumstances under which we can deem it as constituted. We will follow Aristotle here in identifying the *ergon* of citizenship with the preservation of the polity, and that of the polity with the flourishing of the citizen. This reaffirms the thesis of mutual constitutivity, as neither could fulfill this *ergon* without the other.

Mutual constitutivity creates a state of affairs in which citizens not only have obligations that flow from the nature of citizenship's *ergon* – the preservation of the polity - but also rights that flow from the nature of the polity's *ergon* as promoter of the flourishing of the citizenry. To that extent, the respect of these rights by the polity and the discharging of these obligations by the citizenry exist in a complex relationship of mutual dependence.

It should nevertheless be noted that to say that the citizenry constitutes the polity, and that the polity constitutes the citizenry is not to say that they are the same thing, but rather to say that the one is not possible without the other. In order to clarify their relationship, it would be

more accurate to refer to the citizenry as the body of the polity, as per the old expression of “the body politic”. Meanwhile, when we refer to the polity in explicit distinction from this body, we refer to its form, in other words, its constitution. We will now discuss the nature of the constitution and that of the citizen, starting with the former.

The polity cannot be reduced either to the aggregate of the citizenry or a sector of it, such as the government, it must also include the constitution of the whole, as per the constitutive approach. To determine the nature of the constitution, we will treat the polity as analogous to the soul as described in section 3.1.2. in an important regard. In both cases, the constitution is determined by looking at the method for taking unified action, which is deliberation. It is, therefore, in the way in which deliberation is structured that we find the form of the constitution. To put it in more concrete terms, we determine the nature of the constitution by examining the way that the petitioning, legislating, adjudicating, and executing functions are structured and integrated. Understood this way, the constitution does not so much entail consensus as an agreed upon way of reaching consensus when acting in concert. This does not mean, of course, that the constitution may not include concrete ethical content, but its primary characteristic is the organization of deliberation.

We will now turn to the nature of citizenship. I have said above, following Aristotle, that the distinctive activity of citizenship is the preservation of the polity, however, this is not the whole story. Another aspect of citizenship, naturally, is its particular nature, e.g. a citizen is a member of a particular polity at any given time. Hence, we must now examine what is it that makes a citizen a member a particular polity, and thus obliged to preserve it.

It should be noted that the conception of membership most compatible with the constitutive model is that which van der Vossen has called (van der Vossen, 2011) thick membership, and that this conception posits two requirements for membership in a particular polity to be effective. The first is the recognition of the polity of the person’s membership. The second is the presence in the citizen of what van der Vossen has called associative attitudes, and which he describes in the following way:

“According to thick membership views, associative obligations arise out of a more complex kind of membership. Here membership involves various subjective or will-dependent features of people (in addition to thin membership). The literature on associative obligations abounds with examples, such as the role that community plays in the development of character, feelings

of belonging, mutual identification and connectedness, attitudes of mutual special concern [...]. For ease of expression, I will refer to these together as ‘associative attitudes’. Thick membership theories hold that a necessary condition for a person’s APO is that she has associative attitudes.” (van der Vossen, 2011, p. 491)

We see now why thick membership synergizes with the constitutive approach, as its understanding of citizenship requires the presence of a subjective and will-dependent element in the citizen, namely the commitment to the preservation of the polity. The associative attitudes that van der Vossen mentions could be considered to flow both from this and the understanding that the citizen is a member or a part of the polity.

Of these associative attitudes, I will take a moment to emphasize that of mutual special concern, as it plays a key role in grounding the notion of the common good. This notion, in turn, is essential in explaining the *ergon* of the polity, as a locus of political obligation.

The presence of a special mutual concern amongst citizens of the same polity allows us to posit the presence of a common good corresponding to a given association or group, especially given a thick understanding of membership. But care should be taken in specifying what is meant by this term. The common good is here not understood as the sum of the good of each individual, but rather is based on the idea that in certain types of association such as family, friendship, and polity, a concern for the welfare of the other members of the association arises naturally, and one member’s wellbeing is the source of satisfaction for the other. In normal conditions this means that each member wills the good of the other members for their own sake, which then entails that each also wills their own good for the other’s sake. This state of affairs then causes a special kind of human good to arise which is not reducible to the good of each individual, or the sum of the welfare of all individuals: the common good.

#### **4.3. Content**

Recall that according to Horton, the content of political obligation is largely determined by examining the features of the particular polity in question, which is in keeping with his emphasis on local practice. He does, however, admit two general guidelines. The first is that citizens should take into account the welfare of the polity when they act, which does not entail any substantive conception of what the welfare of the polity must be. The second is that the authority of the government should be recognized, which requires neither that a universal standard of what a legitimate government is be recognized, nor that citizens must always

follow the law. The approach to the content of political obligation grounded on constitutive identity overlaps with this view in some regards but also departs from it in others.

The *ergon* of citizenship is the preservation of the polity, which means that we can easily agree with Horton's notion that the citizen must take into account the welfare of the polity in her actions. We might add, however, that the special concern towards one's fellow citizens that we discussed in the previous section should also be considered as a part of this. We also depart from Horton in that we do endorse a substantial conception of the welfare of the polity in that we identify it with the flourishing of its citizens. As we have seen, this situation flows from the mutual constitutivity of citizenry and polity.

Regarding the recognition of the government's authority, we see the obligation to recognize it as contingent on the government's promotion of flourishing, a view analogous to Horton's. Like him, we also posit that in normal conditions, it is a fundamental obligation of the citizen to recognize the authority of the government.

We also add that it is not only the authority of the government that should be acknowledged, but also the adequacy of the constitution. This recognition is necessary because it is from the constitution that the deliberative procedures and structure of government derives, as we indicated during our discussion of the nature of the constitution in section 4.2. In that section, we also established that valid membership also requires us to exhibit associative attitudes such as special mutual concern for fellow citizens and consider the common good in our deliberations.

Like Horton, the constitutive approach recognizes that much of the content of political obligation is dependent on the features of the polity in question: its history, economy, temperament, and strategic situation are all part of a series of contingent factors that might make some actions obligatory in some polities, but not in others.

Our account of the content of political obligation is ultimately similar to Horton, even though we place the source of these fundamental obligations in the obligation to preserve the polity that is constitutive of citizenship. However, the key difference is that we add the concomitant rights of citizens as a proviso for the validity of these obligations, as per the mutual constitutivity thesis, and the citizen's primary right that mirrors the obligation to preserve the polity is that of flourishing to the maximum that her capacity permits.



#### 4.4. Limits

We have previously established that constitutive standards provide the means by which we divide valid and invalid polities. It is thus through these constitutive standards that we can fix the limits of political obligation, as these are primarily relevant in the context of the right of the government to demand obedience and determining the point beyond which individuals are no longer required to comply.

We may divide the limits of political obligation into three tiers. Limits emerging from universal moral principles derived from human constitutive standards. Limits emerging from the constitutive standard of the polity as such. Limits emerging from an extant constitution. The last of these is primarily a limitation on the acting government, while the previous two also concern what a legitimate constitution can be.

We will first address the limits on both constitutions and governments that derive from universal moral standards. Both constitutions and governments are ultimately bound by the universal principles of morality, which means they cannot prescribe or execute acts that interfere with the ability of persons to lead good lives in accordance with the human constitutive standards we have examined.

This largely overlaps with the aspect of limits from constitutive standards, but also includes the wider dimension of international politics, whereby the state is obliged to deal with other nations and states as fairly and humanely as strategic circumstances permit, although examining what a theory of international relations derived from the constitutive approach would look like is well outside of the scope of this investigation. Nevertheless, we might remark in this regard that refusing conscription for combat in an unjust war can be considered as valid from the point of view of the constitutive approach, as the government cannot rightfully demand of its citizens that they be complicit in frustrating the flourishing of other human beings.

Regarding the limits that emerge from the polity's constitutive standards, its *ergon* is, as we have seen, that of promoting civic flourishing. We have already provided an outline of what this means in the section regarding the locus of political obligation. A well-built constitution capable of generating valid obligations must ultimately be directed towards promoting flourishing in this sense. To the extent that a constitutional framework works against this goal, it is incapable of generating valid obligations, and this also applies to acts and commands from the governments that are counteractive of the flourishing of the citizenry.

Regarding the limits originating from the existing constitution, we have already mentioned that they apply to the government in place. Legitimate governmental authority must operate within the bounds of the constitution, in accordance with the principle of rule of law. Since, as we established in section 4.2, the constitution manifests itself primarily through the established process of public deliberation, it follows that acting government agencies are obliged to conduct their legislative, executive, and judicial functions in accordance to the rules laid out in the constitution. Governments are also meant to promote the public good rather than the private interest of government officials. Exceptions to the rule of law might be made in times of emergency, but only if they are in service of the common good.

Governments have no right to demand compliance when their actions are directed towards unconstitutional ends, provided, of course, that the relevant aspects of the constitution are within the previously examined limits of political obligation. No government agencies are exempt from the laws, the constitution, and universal moral standards, though the last of these clearly do not apply to governments in the same way they do to individuals. To the manner and extent that the polity fails to abide by these standards, to that same manner and extent the citizen ceases to be obliged to act in its preservation, which might happen at the level of specific laws or commands, or at that of general recognition of authority.

## **5. Theoretical problems**

### **5.1. Bad identities problem**

In Section 2, we examined Horton's theory of political obligation and Simmons's critique of it and similar approaches. During that discussion, a problem frequently arose to pose a substantive challenge to attempts at building an associative theory of political obligation, that of bad identities. This dissertation has attempted to provide an approach to political obligation that departs from these associative approaches in significant ways while nevertheless still drawing inspiration from them in various respects. Indeed, the argument here presented was built around preserving some of the more appealing aspects of the associative approach, such as its emphasis on associative attitudes. The question then arises of whether the constitutive approach is able to overcome objections raised against it through the bad identities problem.

To quickly recapitulate, the bad identities problem postulates that due to the existence and possibility of identities that include among their norms and habits the conduct of unjust practices, identities cannot realistically be posited as the source of normativity. Attempts to ground normativity in this manner, so the argument goes, are at risk of implicitly endorsing practices that are universally considered vicious since it is generally acknowledged that forms of identification exist and have existed that have required such practices as part of the ways of life they promote.

We have seen that the theory of political obligation advanced here is grounded on the normativity of identity, much like Horton's. However, the prime obstacle Horton faced in his response to the bad identities challenge arose from his commitment to the NIT, and we suggested that the identity argument for political obligation could be preserved once it was dissociated from it.

This dissociation is the first step towards overcoming the bad identities problem, however, it still does not fully explain how it is avoided. For that, we need to recall our discussion of Korsgaard's constitutional model of identity. To reiterate, Korsgaard conceives of identity as having two-tiers, formal identity and practical identity. Practical identity includes the practices, habits, and norms we acquire from our membership in particular associations such as family, community, polity, etc. This aspect of identity, alone, cannot be the source of normativity without being severely undermined by the bad identities problem. However, once it is integrated within formal identity, it can indeed serve as a distinct, though not independent source of normativity.

To further specify the relationship between these two tiers of identity, formal identity provides what we could call the paradigm within which practical identity can develop and constitute itself. Formal identity provides the source of normativity for practical identity. Furthermore, formal identity sets the limits within which practical identity can develop, and beyond which it cannot proceed. This means that practical identities cannot incorporate vicious practices that interfere with the flourishing of either those that adopt them, or of other human beings.

We can see that it is indeed the formal aspect of identities that does the important work in this formulation once we recall the imperative form of normativity identity. The categorical imperative arising from our constitutive standards is that we must want to lead good lives as rational animals, and from this imperative we can actuate the hypothetical imperative “if I wish to have a good life, I must actualize my capacities”, which includes the social and political capacities that ground our practical identity. The categorical imperative is universal and objective, as it arises from the constitutive standard of what it means to be a human being.

The corollary of this is that to the extent that practical identities conflict with the universal standards of human constitutivity, they simply do not succeed in acquiring normativity from identity, as practical identity is fundamentally practical human identity, and to the extent that a form of identification fails to meet this standard it simply does not count as a valid identity.

We see, then, that this approach incorporates practical identity within a normative framework that is fundamentally universalist, which means that it is ultimately able to meet the challenge of the bad identities problem, as its theoretical apparatus has the tools to avert legitimizing particular instances of unjust identities. To use Vernon’s rendition, this approach consistently and consciously sets a standard to adjudicate between valid and invalid identities, the constitutive standard.

## **6. Conclusion**

The present study aimed to provide an alternative to existing identity-based theories of political obligation, primarily those of the associative kind, that nevertheless attempted to preserve many of the advantages of the associative approach. We have seen that its main departure from the latter in this regard consists in its rejection NIT. Meanwhile, its most distinctive feature is its endorsement and incorporation of Christine Korsgaard's constitutional model of identity, through which it strove to bridge the particular and universal aspects of the concept of identity, in an effort to ground the normativity of political obligation through the latter. To conclude this dissertation, I will provide a summary of the answers to the central questions about the problem of political obligation that this approach has yielded, and then apply these to the historical case presented at the start.

### **Why are we obligated to obey? The normativity of obligation**

Intelligible agency requires the organization of the mental and psychological constituents of an individual's subjectivity into a coherent personal constitution that is subject to the normativity of the constitutive standard of humanity as rational animality. The categorical imperative that humans ought to strive to have good lives is derived from this standard and supplies the universal moral foundation for the normativity of our political obligations.

### **Who is obligated?**

Members of a polity are 'thick members', who exhibit associative attitudes and for whom identification with the polity is part of their personal constitution. They must also meet whatever external requirement of membership a polity requires. It is these members that are bound to full political obligation within a given polity.

### **To whom are we obligated?**

The agency to which we owe political obligations is a constituted authority that is just and promotes human flourishing, while also being "our" polity, the political agency we identify with and we are embedded in.

### **What are our political obligations? The content of political obligation**

In general, we are obliged to value the preservation of the polity and the common good in our deliberations, and also towards the recognition of both the authority of the government and

the adequacy of the constitution. Much of the specific content of our obligations, however, derives from the particular character and circumstances of the polity.

### **When are we obligated to obey? The limits of obligation**

We are only obligated to obey political authority and its laws when we fall within its legitimate domain and the commands or laws in question do not contradict the universal moral standards implicit in our constitutive standards. These moral standards constitute limits beyond which political authority is not entitled to require our action. Civil disobedience becomes legitimate in cases in which political authority exceeds these limits in its legislation or commands, and the grounds of obedience become exclusively prudential.

### **The Venezuelan case**

We will now return to our original historical case, the Venezuelan instance of political disobedience of 2002, and examine how we can evaluate this situation through the theory of political obligation sketched out in this dissertation.

During our discussion of the limits of political obligation, we determined that commands by the government that threaten the common good and the flourishing of the citizens do not generate valid political obligations. Indeed, political obligation in such cases dictates that disobedience is the right course of action. This discussion also established that governments were bound by the constitution and the principle of rule of law.

This being the case, we can conclude that the acts of disobedience conducted by the officers who defied the president's order, and indeed, sabotaged its implementation by another officer, can be seen as legitimate. There are two grounds for this conclusion, the unconstitutionality of the order, and the fact that it was geared towards a violation of the rights of the citizenry.

Regarding the first point, the constitution expressly prohibited the use of the army against civilians, and the execution of Plan Ávila entailed precisely the deployment of the army against civilians. The second point, however, is the more important one since, as we have seen, unconstitutional acts may be justified in case of an emergency and for the sake of the common good. In this case, however, the commands in question were not geared towards the common good, but rather the violation of the right of citizens to flourish. In particular, many citizens would have had their rights to life and to peaceful political demonstration frustrated had the officers followed their orders.

Furthermore, the officers would have compromised their integrity as human beings, patriots and as members of the army had they obeyed. Both at the level of formal and practical identity, taking this action would have undermined their character, and no political authority can legitimately request this of one of its agents.

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