

The Political Obligations of Long-Term Residents

Marc McGowan

S2405229

In partial fulfilment of Master in Political Legitimacy and Justice

8346 Words

09/01/2020

**Under supervision of Professor Paul Nieuwenburg
Second reader: Dr. Floris Mansvelt Beck**

Abstract

The purpose of this thesis is to advance the argument that long-term residents in a country have the same political obligations as citizens. This shall be achieved by showing that the link between citizenship and political obligation is not sufficiently general, and therefore by Simmons's own conditions, cannot explain political obligation. The remainder of the paper will be dedicated to proving that the natural duty of justice is the best candidate to account for political obligation. It is a sufficiently general theory as it compels everyone to support and not interfere with just institutions. It is also sufficiently particular due to the range-limited nature of political institutions, and the associated difference between "insiders" and "outsiders" in a state. As long-term residents are "insiders" in a state, we therefore can conclude that they have the same political obligations as citizens, and therefore are due the same rights, as there is a correlative relationship between political obligation and rights.

Table of Contents

Introduction 4

Chapter 1- Citizenship and the Link to Political Obligation..... 6

Chapter 2- The Natural Duty of Justice and Generality 13

Chapter 3- Particularity and Political Obligation of Long-term Residents..... 20

Concluding Remarks 27

Bibliography 29

Introduction

We live in the age of mass migration where many choose to live outwith their country of birth for a variety of reasons. Some have been driven away by war and we have observed millions of people flee countries, such as Syria, for what they hope would be a better life in Europe. Some have seen better opportunities for employment elsewhere and decided to resettle where they could maximise their life chances. Some have decided they simply prefer the way of life in another country and chose to take advantage of political establishments such as the European Union to move their lives to somewhere else. In any country we are under a certain level of political obligation and this is not untrue of the people I have described above and therefore we are granted a certain level of rights based on these obligations. What we need to ask is what level of obligation should these people be under as compared to the native population, and what rights are these people due as a result. The question of resident's political obligation in this sense is a fairly untouched one within political philosophy. However, this topic is becoming increasingly important as contemporary issues such as Brexit arise. Currently in Britain there are millions of European Union citizens living in the United Kingdom, many of whom have lived there much of their lives, who now face the situation of an overnight loss of rights to live and work in the UK. Many do not want to leave and want to continue the lives they have built in the UK, but still want to retain the citizenship of their home country and to not naturalise to become British. The question is: "Do these people have the same political obligation as UK citizens if they then lose these rights, and conversely if they have the same political obligation should they have the same rights?"

I shall advance the thesis that long-term residents should have the same political obligation, and therefore equal rights, to any citizen of a given state. The concept of “long-term resident” is central to this thesis, and a concept that I would define as any person who has secured the right *to live indefinitely* in a country. This person may have acquired this right through an application process or through previous treaties such as the freedom of movement in the EU. However, the key point is these long-term residents are not/were not expected to leave after a certain amount of time, and for the purposes of this thesis, there is the assumption that they do not want to do so. I shall draw upon the conditions set by Simmons that any theory of political obligation must be both sufficiently general and sufficiently particular. I will therefore demonstrate that it is possible to show that the citizenship approach to political obligation is to some extent particular, but fails to be sufficiently general. In showing this I will show that acquiring obligation by means of citizenship is not a sufficient explanation of why we have political obligations. I shall then seek to disprove the status quo as laid down by Simmons as shown in figure 1 and prove that duty based

	Duty	Obligation acquired by citizenship
Generality	-	-
Particularity	-	+

(Figure 1: Duty based approach vs obligation acquired by citizenship approach by Simmons)

explanations are both general and particular enough. This will therefore allow us to use the natural duty of justice as the moral foundation for our argument. Having established generality of the theory in chapter two, I shall go on to use the works of philosophers such as Kant and Waldron to establish the theory meets the particularity requirement. In these steps I will disprove the argument of Simmons from figure 1 that the Duty approach is not sufficiently general or sufficiently particular. I will prove that the natural duty of justice is the best explanation of why we have political obligation, and long-term residents have the same political obligation as citizens.

Chapter 1- Citizenship and the Link to Political Obligation

In order to answer the question of where our political obligation come from, we must first evaluate the theory behind political obligation itself and evaluate the link of citizenship as a means for creating it. This chapter will therefore seek to answer the question; does citizenship explain why we have political obligations? The eventual resolution shall be that citizenship is not sufficient in satisfying the conditions, generally accepted by political philosophers, which must be met if a theory is to explain where political obligation comes from. This will be achieved by analysing the concept of citizenship with regards to its claim to create political obligations as a result of creating a special tie between all citizens of a state and the government. I shall look towards the wider moral case for citizenship as a means for explaining why we should obey governments by evaluating what it means for a citizen to be a “position” within society, and in analysing this it will show in fact that citizenship has no *moral claim* to dictate whether we should obey governments or not. Secondly, it is

important to evaluate situations where the theory cannot explain, to expose weaknesses that cannot be ignored. In dissolving the link between citizenship and political obligation, we can then move forward to consider another theory that allows us to encompass long-term residents, which a theory of acquired obligation by citizenship does not allow for.

To understand how to construct this argument we will need to grasp some key concepts of political philosophy. Central to this thesis will be the concept of “obligation” that, if we draw on Simmons, we can understand to be a *“limitation on freedom and a requirement”* which must be carried out irrespective of how we feel about the limitation itself (Simmons, 1979: 7). These obligations may be created by a special tie or voluntary action, such as a promise, which in turn binds a person specifically to another person to carry out said obligation (ibid: 14). This is what is known as a theory of acquired obligation as the obligation must be created by an action as described above or, for Simmons, by the special tie that is acquired due to a relationship to something or someone. It is important to note at this point that there is a “correlativity” between obligations and rights, which means that the creation of any obligation simultaneously creates a right or a claim from one person to the person who “promised” to carry out the obligation (ibid 14-15; Hart, 1955: 180). It is also important to understand that an obligation is only one kind of moral consideration: the fact that we are obligated to do something does not mean we should do it, all things considered (Simmons, 1979: 9). There may be another reason that trumps an obligation in certain situations.

From the above account of acquired obligation, we can define political obligation as one of the moral considerations that make up why we would obey or disobey a

government/state or political institution. Simmons sets out criteria for what the foundations for political obligation are. I shall mainly be focusing on generality and particularity. Generality can be described as the requirement that a theory of political obligation applies to as many as possible within a given political society as possible (ibid: 38). Secondly, the so-called “particularity requirement” outlines that political obligations are owed only to a particular state that has a primary jurisdiction over this person (Simmons, 1979: 33). For a theory to be sufficiently particular it must outline to whom it specifically applies and therefore who owes obligations to a given state. So in summary, generality specifies who obeys the state and particularity specifies to which state we may owe this obligation.

This thesis shall also follow the assumptions of generality and particularity throughout, as they are widely accepted conditions to explain political obligations in political philosophy. Although there are scholars such as Kevin Walton who seek to disprove that these conditions should be “relied upon” (Walton, 2013), it is not helpful for the following arguments or in fact relevant. In order to break the link between citizenship and political obligation in the following paragraphs, the most effective way is to use Simmons’s theory against itself and then continues to advance the thesis within the means of these conditions. This is also because these same conditions can be justified and run parallel to the concepts that scholars such as Walton propose as “an alternative”. This shall be discussed in later chapters.

It is not difficult if we look to the previous discussions on obligation to see how some such as Simmons may see a link between the concepts of citizenship and political obligation. Citizenship in the way most people understand it makes us think of the legal bond to a given country. Without citizenship it would be extremely challenging

to live in the modern age and would make travel almost impossible. This is exemplified in the story of the Iranian man who was trapped in a Paris airport for almost 20 years after his citizenship was revoked by his home state, and France had nowhere to send him “home” to. Many philosophers, to varying degrees, see citizenship as having obligations to be a “good citizen”, which may simply be to obey the law or support the government (Simmons, 1979: 5). When looking to the conditions that were agreed upon as the foundations for political obligation earlier, it is not wrong to say that citizenship creates some sort of bond in the sense that it specifies which government is your “home” government. Citizenship sufficiently specifies which government has primary jurisdiction over a person. In the example earlier where the man could have been sent home to if his citizenship was not revoked. But, we must question if this is enough to create a political obligation, as some believe. To establish a political obligation citizenship as a concept must also be sufficiently general. The tie to the government must be what is known as a special tie, which for Simmons is essential in creating political obligation (ibid: 34). A special tie is one that solves the particularity requirement and creates a special bond between one person and another, or an institution (ibid: 3). But the question is, does citizenship as a special tie therefore create political obligation? The answer is, surely not, as there is an issue with the generality of citizenship in terms of the bond it makes. Obligation, in the acquired sense that Simmons adopts, can only be created through a voluntary act. This is known as explicit consent, and the vast majority of citizens do not voluntarily act at any point to express their want for citizenship of a specific state. If only a small number of people within the given state explicitly consent to be members of the state then we cannot accept that citizenship, as a concept, is general enough to explain the political obligation we have towards that state.

It is also useful to take this analysis a step further and explore the overall *moral* weighting of citizenship. Citizenship is what is known for Simmons as a “position”, which comes with “positional duties” (Simmons, 1979: 16). A Duty in general can be seen in two ways: firstly as the responsibilities one has because of their role/job (positional duty), and secondly we have the Rawlsian natural duties that can be described briefly as moral duties (ibid: 11-13). Natural duties are owed to *all* fellow humans meaning that they are perfectly general (ibid). Citizenship as a “position” entails positional duties, or “duties of citizenship” which for some may be seen to create political obligation and create a moral obligation to obey a given state (ibid: 17). However Simmons’s own analysis makes it very clear that positional duties have *no moral weight* attached to them (ibid: 18). If this were the case then the duties of citizenship, which are a form of positional duties, would also carry no moral weight. Simmons considers the case of an army medic in a Saigon bar who should be treating the wounded but chooses to drink there instead, and as a result of his neglect of his duties many die (ibid: 18). The crux of the argument is based on the assumption that the army medic was in fact *conscripted* into the role and therefore did not perform any voluntary act to enter into it (ibid: 19). This assumption of having no choice in the position you find yourself in is the same as ending up in the position of being a citizen on the most part. Many non-naturalised citizens did not choose to be citizens of the state that they happened to be born in, and are therefore in that respect comparable to the position as the army medic. Although the medic may have some sort of natural duty to help those in need, there is no *moral* obligation that stems directly from the position that he is in (ibid). If we apply this to the position of citizen we can come to the same conclusion, and just as the army medic would face no moral judgment for not fulfilling his positional duties (but only their natural duties), neither would a

citizen. To be obligated to do something, there must be a moral requirement independent of the positional duty itself (ibid: 21). Therefore there must be a moral requirement to fulfil the duties of citizenship in place in order for one to be politically obligated due to mere citizenship (ibid: 23). Through Simmons own analysis we need to first have a political obligation that stems from citizenship in order for there to be any claim of a moral obligation to fulfil the duties of citizenship. So this leads us to the conclusion that citizenship, by the virtue of simply being a position with positional duties, does not establish any political obligation.

To fully discount acquired obligation theories as a means of acquiring political obligation, we must assess the gaps in the theory as a whole and position it alongside other theories that have tried to explain the same as Simmons has with citizenship. Imagine two countries that have “just” legal systems, which for now we assume “just” to be taken at face value and to be expanded on later in this thesis. These countries are sufficiently far apart from each other that we cannot conceive that the average citizen of either regularly has the means or intention to visit the other. This is the basic example put forward by Waldron that seeks to explain why citizenship along with many other theories, such as consent and fair play, cannot explain political obligation (Waldron, 1993, 6). These two countries, France and New Zealand in Waldron’s example, are also separate enough that there is never any discussion of one country having a say in the creation of laws and rights of citizens in the others (ibid). It is not controversial to assume that there is a normative expectation that a Frenchman living in France should follow the laws of France, for whatever reason, and that this is the same of a New Zealander in New Zealand (ibid). We assume that there is a political obligation in place for these citizens but the question is, first, how far does this

political obligation reach and second, if citizenship is truly its explanation. To answer this we can look to the same example that Waldron gives that tells the story of the 1985 French attack on a boat in a New Zealand harbour, which led to the arrest of the French operatives involved (ibid: 9). It was in the aftermath of the investigation that it was discovered that the French officials had attempted to obstruct the investigation and even asked those arrested to lie about the events that took place (ibid). It would be hard to make the moral case that obstructing the legal system of any just state is the right thing for anyone to do (ibid: 10). But how can being a citizen of France compel us not to interfere with matters in New Zealand if we have not promised to do so? We then must come to the conclusion that a theory of acquired obligation, including obligation acquired through citizenship, cannot explain the political obligation we have to any foreign government or legal system (ibid). This is because acquired obligation theories are based on ties and promises that we may not have or given to governments on the other side of the world, but for some reason outside the theory we do have these obligations. This example therefore shows that being a legal citizen of a given country cannot explain the obligations you may have to another that we have accepted to exist. This also more widely points to a lack of generality in the theory, as we cannot explain why any citizen has any obligation to another country.

The question of this chapter was to examine if citizenship was responsible for political obligation, and the conclusion we have arrived at is that it is not. In outlining and following the widely accepted conditions that is necessary for explaining political obligation, generality and particularity, we have seen that citizenship falls short on a number of grounds. Firstly we have seen that citizenship may be a special tie that

creates a bond between the state and a citizen. However, as many do not voluntarily become a citizen there is no moral obligation created. This shows that as an overall concept citizenship is not sufficiently general to qualify for political obligation. This is also because citizenship is a “position” and therefore has positional duties. If we are to follow the theory of Simmons, Positional duties, or specifically duties of citizenship, carry no moral weight and are therefore also exempt from criticism if not carried out. There must be an obligation independent of positional duties if we are to have an obligation to carry those duties out. This may point to an overall confusion in the concept of a special tie that Simmons himself may not be clear on. A special tie itself as we have seen does not create obligation; possibly it is therefore just a feeling of belonging in some cases. Secondly, the example of why we have a political obligation to not interfere with foreign legal systems, when we empirically do, is a gap in the general set of theories of acquired obligation that we can consider citizenship to lie within. This lack of explanatory power is problematic for this theory and shows how it is not sufficient as a theory of political obligation, due again to proven lack of generality. This all leads us to the conclusion that political obligation is not formed as a result of being a citizen and the link that Simmons creates is dissolved. The implications of this whole analysis are that we must find a moral grounding, and develop a theory that is sufficiently general and particular to create political obligation, which is the object of the remainder of this thesis.

Chapter 2- The Natural Duty of Justice and Generality

Having proven that the citizenship as a means of acquiring obligation is not sufficiently general, we must now look to an alternative theory that can explain why

we have political obligations. We need to bear in mind that this must be a theory that will contribute to the thesis that long-term residents have the same political obligations others, such as the citizen, within a state. These long-term residents would therefore have the same rights, due to the correlative nature of obligations and rights. The notion of obligation that we shall use from now on is a more general notion than the narrow acquired obligation approach taken by Simmons and Hart, where only voluntary acts create obligation. It is logical then to firstly focus on proving the generality of another theory in order to achieve this. In this chapter I will therefore seek to prove that the natural duty of justice is the most appropriate moral grounding to explain political obligation. I shall first provide a quick summary of the main tenets of the theory as set out by John Rawls and highlight the most important parts of his theory, which will help us understand how it can be seen as a sufficiently general theory. I shall then deal with the criticisms of the theory which question “who” such a theory can really apply to and also that question the principle of justice. Thus I will show with this chapter that the theory of the natural duty of justice is sufficiently general as a ground for explaining why we have political obligations, and will then be able to proceed to prove its particularity in the final chapter.

As opposed to the acquired obligation approaches to political obligation we have mostly discussed previously, the natural duty of justice can be described as a duty centred approach. Natural duties, or duties that we all must carry out by virtue of being human beings, apply to us all and are independent of any voluntary acts (Rawls: 1971: 98). Rawls explains we have many natural duties such as the natural duty not to be cruel and to help each other if needed, and we do not need to express a commitment to these duties, as we have seen, in order to have to act in accordance

with them (ibid). So, expressing that one should or would not, say, kill another person is redundant, as the duty already exists (ibid). As you could infer from these examples natural duties are duties we have to all and that we therefore all possess, and this is what makes them “natural” (ibid: 99). In terms of justice and fairness, which is the part of the theory that we are most interested in for this thesis, Rawls sets out two conditions that we all must follow. The first is that we must “*support and comply with just institutions that exist and apply to us*” (ibid). Secondly if such a just institution does not exist we must seek to create one if doing so does not harm or cost us too much (ibid). These conditions then as to why we should obey “just” governments explain the political obligation we have to these states. If our state is “just”, then we have a natural duty to obey and support it, and because it is a natural duty, it is a perfectly general account of why we should do so.

However there are those who believe that the natural duty of justice does not offer a sufficiently general account of why we have political obligation. Simmons is of the view that only a select number of people within a state are actually obligated and that those people have in fact, unsurprisingly if we look at the previous arguments of Simmons, acquired that obligation (Simmons, 1979: 151). The only way that we would be morally obligated to obey any institutions would be if we had acted in a certain way, which either expressed explicit consent or connected us heavily with the institution/state (ibid: 150). The notion that these institutions require some sort of act therefore raises the question of who is morally bound to follow its rules, and this is the question that Simmons is asking. This is a critique of the clause in Rawls conditions that state we should comply with just institutions that “apply to us”. The term used to describe the above situation where we explicitly consent is that these

institutions “strongly apply” to us (ibid). It separates those who have become an active participant in the institution, or state, from those who have been passive in the way that the institution operates (ibid). It more specifically separates the active individuals in the state from people who merely reside within the state (“territorially apply”) and from those who merely described within the rules of the institution (“weakly apply”) (ibid). Those to whom the institution does not apply “strongly” would not be morally obliged to follow the rules put forward by the given institution and therefore would have no political obligation towards it (ibid: 151). The implications of this analysis, within the framework of the narrow version of obligations laid down by Simmons and Hart, would be that the natural duty of justice sets out a theory that is no more general than any of the theories of acquired obligation, if we take the “strong” sense of “apply to us” to be the operative meaning (ibid: 152). Or if we take the conclusion that the duty applies to everyone who lives within the territory of the state, such as citizens and long-term residents, then it holds no *moral* significance, although it may be general (ibid). Therefore the crux of Simmons’s argument is that no person who merely resides within a state is obligated to follow any political institutions within that state, unless they expressly consented or were an active participant in the institution. However, this approach is problematic when we consider the case of Northern Ireland and their relationship to the Republic of Ireland and the United Kingdom. On April 10th 1998 the Good Friday Agreement, also known as the Belfast Agreement, was reached following multi-party and multi-state negotiations. This agreement was reached in order to end a decades long conflict between the mostly Catholic republicans and the mostly Protestant Unionists over the constitutional state of Northern Ireland. In order to end the violence and bring about political stability in the region, the agreement was made and a number of institutions

were created to ensure that conflict never returned to the island of Ireland. This political institution was put in place to create peace and obligates all involved governments and people to uphold it. In this case to argue that you are only obligated to comply with the institutions if you consented to it or were an active participant in its creation is not only false, but also irresponsible. All of those living within the island of Ireland's territory have a duty and an obligation to uphold the values that it promotes and seek not to harm it. This is a prime example of a just institution that Rawls is talking about. It would therefore be wrong to assert that if a political institution only applies to you territorially then there is no moral reason you should follow it. This disproves Simmons theory that you only need to comply with those institutions that "strongly apply" to you. There is also the argument to be made in this case that the Good Friday Agreement creates the political obligation of those to whom it "weakly applies" to support it, as to interfere in any capacity with such an institution would cause harm to others, thus violating the natural duties laid down by Rawls. A British politician for a constituency in England, Wales or Scotland would be acting immorally if they tried to enact legislation that would harm such an agreement. This shows that if the institution is just, we are all obligated to support and act in a manner that will not harm it. This example proves that the natural duty of justice is a sufficiently, if not perfectly, general account of why we have political obligations to just institutions if we live within the reach of where they apply, such as long-term residents in a given state.

However, having established that these institutions "apply to" more than just those who exercise a strong will, in some sense, for them to do so, there are still other concerns that surround this application clause. Even if some were to accept this

notion, they would still question whether the application or the justice of the actual institution is the property that creates the demand for compliance. Simmons claims that the application clause appears to be necessary in order to make sure the natural duty of justice theory of political obligation is not over demanding (ibid: 153). As Rawls states, we need to do our duty in supporting all just institutions (Rawls: 1971: 98). However on its own Simmons believes this would create too much of an obligation for anyone to be able to realistically fulfil (Simmons, 1979: 153). How can we be expected to support all just institutions wherever they may be? This for Simmons is why the application clause is needed (ibid). This line of argumentation leads us to question if the justice of the institution is really what is binding us or if we are bound to the institution because it simply “applies to us”. This requires us to explicitly link a number of previous arguments, which is necessary to ensure that we can move on with this thesis. We first return to the story that Waldron tells about the French and the New Zealanders that I used to exemplify why citizenship is not capable of being sufficiently general. We recall that the French were morally at fault for attempting to stand in the way of justice being served in New Zealand (Waldron, 1993, 9). They were morally at fault because the institution in which they were attempting to undermine was a just institution (ibid: 10). But we again return to the question of how this institution “applies to” a Frenchman. The answer simply is because it is just, that is the core of the natural duty of justice theory. Although we may not actively be expected to support every just institution in the sense that Simmons may see it, there is an expectation for us not to interfere with them (ibid: 10). For Waldron this is the clarification of Rawls’s theory that can solve this issue. We can actively support a just institution by not interfering with it (ibid: 10). This is the same in the case of the British politician not creating legislation that would harm

the Good Friday Agreement. By not harming a just institution, we are supporting it. We can therefore see that it is not the application clause that creates the bond rather than the justice of the institution. Having solved the seemingly over demanding nature of the natural duty of justice, we can see it is the justice of the institution that creates that application and therefore requires us to support these institutions. As Waldron correctly states there may a number of layers such as explicit consent that create political obligations, but to understand why we all have political obligation, the natural duty of justice is the only theory that captures everyone in all situations (ibid: 11). This helps affirm that the natural duty of justice is the most general theory to explain our political obligations due to our duty to support all just institutions, in our own country of residence and in other countries.

We have therefore seen that the natural duty of justice is sufficiently, if not perfectly, general in accounting for the political obligations we have towards just states. Having introduced the natural duty of justice account, as set out by John Rawls, we analysed the two conditions that are crucial to the creation of our political obligations. This was achieved by refuting critiques from Simmons, who claimed that the generality of the theory was not sufficient due to our need to have strong ties to the state in order for us to be morally obligated. As we saw, this was a false claim and we are expected to comply with all just institutions. The justice is what creates the obligation. Therefore if an institution is just, we are all expected to support it no matter where it is, which can simply mean not interfering with it. As we have proved the generality of the natural duty of justice we can now move on to prove how the theory satisfies the “particularity requirement” for all those living in a state on a long-term basis. As we have seen and are building towards, citizens are not the only ones who owe this

obligation and including long-term residents in our analysis help establish the theory generally. The purpose of the last chapter is to prove this particularity and establish the natural duty of justice as the theory that best explains why we have political obligation.

Chapter 3- Particularity and Political Obligation of Long-term Residents

Having established a moral grounding in the natural duty of justice as sufficiently general, we can therefore move on to solve the most prevalent critique used against the theory. This critique involves the “particularity requirement”, which we know must be satisfied if a theory is to explain political obligation. The argument follows that if the natural duty of justice compels us to follow all just political institutions, there is nothing that ties us to the institutions in our own country (Simmons, 1979: 153). This in essence means that the theory fails to embody what it means to have a political obligation, as we have no political bonds to *one particular set* of political institutions (ibid). However this chapter will show that this is not the case and the natural duty of justice does indeed prove to be sufficiently particular. In showing this, it will therefore prove that in light of the last chapter proving its generality, the natural duty of justice can indeed explain the political obligations that long-term residents have. In order to achieve this, I shall begin by revisiting the application clause that was discussed in the last chapter and show how it can create special bonds to particular institutions beyond the duty to not interfere. This will show that political institutions create more obligations for some than others and that long-term residents fall within this group. I will then examine the definitive reasons why particular people have these political reasons and show that justice, as well as the effectiveness and the

legitimacy of the institution are key. This will show that the concept of hypothetical consent contributes heavily to solve the “particularity requirement” by establishing legitimacy from particular people, such as long-term residents, to an institution.

The last chapter helped us understand that we all have the duty not to interfere in just institutions wherever they may be. However, we have outlined in order to establish why we have political obligations, we need to establish why we have special relationships to certain institutions. If this were not the case then it could conceivably be argued that we have to pay income tax to every just institution that collects income tax in any country. We need to establish which income tax collecting institution we have to forgo a percentage of our salary to every time we receive a salary. In turn, the institutions that we have set up to administer such measures for whatever just reasons then redistribute these taxes for a just reason into services or otherwise, and we need to establish who receives these services and state aid. We then need to work with the idea that aspects of some political institutions are “range-limited”, which helps us understand that some political institutions apply to us and compel us to fulfil certain obligations due to the fact that we meet certain criteria (Waldron, 1993, 9). The distinction that we will then make to decide if you have these obligations is the distinction between “insiders” and “outsiders” (ibid). You indeed have an obligation to pay income tax or you are eligible to receive certain forms of aid due to the fact that you are an “insider” (ibid). But in order to justify why these institutions do not have a duty to redistribute your taxes to everyone in the world who needs help (that they are “range-limited”), we need to justify why this is the case. This will help us understand who is an “insider” and who is not. In order to do so we need to draw on the work of Immanuel Kant and understand why these institutions exist in the first

place. Kant outlines that we must come together to escape what is known as the “state of nature” (a situation of lawlessness where violence and theft are common place) in order to protect your property and avoid conflict (Kant, 1965: 114). Such an institution would require you to not encroach on others property and to refrain from violence, which would in turn compel others to do the same (ibid: 115). This would be most effective if it was in cooperation with those closest to you, your neighbours, as they are the ones you are most likely to have the most conflict with due to the simple fact you see them more than anyone else (ibid). Without one unifying body that determines what is just in terms of settling disputes, such as property disputes, conflict would happen on a daily basis as we all pursue our own brand of what we think is just (Waldron, 1996: 1546). This analysis from Kant can be applied to the problem of political obligation and we can see quite clearly a distinction between the political obligation of “insiders” and “outsiders” (Waldron, 1993: 16). A person is therefore an insider in relation to a political institution if the purpose of a given institution is to do justice to that person in the realm of all the interactions that this person deals with them (ibid). Essentially you are an insider with regards to an institution if it attempts to avoid conflicts that would have otherwise taken place with those around you if the institution were not in place (ibid: 18). It is this idea that institutions are therefore “range-limited” due to the nature of applying only to the insiders of this institution that helps us justify its limited nature (ibid). Arguably this is enough to create a special bond between the “insiders” and the given political institutions of a country beyond the duty not to interfere with the political institutions that “outsiders” are subject to (ibid). We can therefore argue that the “insider”/“outsider” relationship helps us in solving the particularity requirement, as it stipulates a special relationship of some people to a given political institution. In

addition to this it goes some way to establishing the political obligations that long-term residents have to these institutions as, to return to Kant's argumentation, these institutions are applicable to those we are in proximity to most, which creates this duty to comply (Dagger & Lefkowitz, 2014: 20). As per our definition of long-term residents, these people are living within a territory and are in close contact to others on a long-term basis, which by our account of political obligation establishes them as "insiders". It also helps us understand further that citizenship is not where we draw the line of political obligation and that long-term residents are not in the same category as, say, tourists. These people would be subject to the same income tax claims from the institutions collecting it as any citizen living permanently in the country would be on the grounds of their long-term residence.

In order to finish our analysis and prove that long-term residents, and in fact all those permanently living within a state, have political obligations, we need to discuss the legitimacy of political institutions. We have previously demonstrated that it is the justice of the application that makes the natural duty of justice general enough to continue our evaluation. Then we have just seen how it is the limited nature of these institutions go some way to proving these institutions are particular enough to expect obligations. Now we need to end our analysis by bringing this all together and explain what makes these institutions legitimate enough, as well as just. Justice, as we have discovered, is an important element that contributes towards the need to comply with a political institution. However what is justice without effectiveness (Waldron, 1993: 20)? We must trust that the institution that we are expected to support is actually "capable" of executing its aims (ibid). We cannot be expected to follow a lost cause just because it was just at one time (ibid). An institution can be thought of as effective

within a territory if the majority of those that it applies to believe it to be effective (ibid). Most of the political institutions we think of and comply with today do indeed satisfy this requirement of effectiveness or looking at the above analysis, it could be argued they would not exist because they do not achieve what they are expected to achieve (ibid)? But we have seen in the past that there have been political institutions or organisations that have claimed to be just that have been somewhat effective in doing so, which we would heavily question whether we have an obligation towards. The Italian mafia provided for the communities and it was active in a more effective way than the government and local authorities to some extent, but does this mean we are under a political obligation? The answer is, of course, no. But to prove this we need to see why legitimacy plays a role.

The legitimacy of an institution is made up by three conditions and is linked to the work of Kant and namely Waldron's interpretation of Kant. The first thing we need to consider when deciding if an institution/organisation is legitimate is therefore if it is actually capable of solving the problem that it is created to solve (ibid: 22). This is not simply in the sense that the given institution is effective as has been explained before. To be legitimate an institution must be able to take us out of the state of nature with regards to the issue it aims to resolve and arbitrate in (ibid). By the institution taking us out of the state of nature, it is meant that the institution would aim to prevent unnecessary disputes due to a lack of unified understanding of what is just. If there is a need for an institution to solve a given issue within a territory then there is a "moral requirement" for it (ibid). Secondly, if an institution is to be legitimate, it must be able to prove that it is the best candidate for determining what is just and therefore have a "monopoly" in this determination in the given territory (ibid). The reason we need to

give political institutions, as explained in the first condition, is to avoid a state of nature of individuals. Therefore creating a de facto state of nature between competing organisations would be less than optimal (Waldron, 1996: 1540). Since justice is differently conceived in different places and between competing institutions, so it is necessary for an organisation to justify why it must be the sole institution to provide justice in a given area (Waldron, 1993: 23). It is also empirically seen that we need a single strand and agreement of justice within a state and therefore this requires a set of institutions that agrees upon how we should administer justice (ibid: 24). The key idea to take away from this is that there should only be one institution, thus one conceptualisation of what is just, in each area and that a government should follow one conception of justice through these bodies/institutions.

The two preceding conditions on what we expect from an institution if it is to be just feeds into the last condition which is equal in some ways but more important in others. There must be valid grounds for the expectation of political obligations within a state (ibid: 25). If there is some sort of competition within a state over what institution should be in control then we need some way to choose between them and express a preference (ibid). What is suggested is a way to choose between two potential competing institutions. It is a form of consent, but not in the way that Simmons would conceptualise it, in the acquired obligation sense. The type of consent we are talking about here is what is known as hypothetical consent (ibid). This is because the “consent” that is given effects the “insiders” as they are required to comply, but also the “outsiders” who are expected not to interfere (ibid). Hypothetical consent is based on the idea that if we were asked to choose one option over the other that there would be a clear “winner” between the two options, therefore

helping us arrive at a single institution to support (ibid). If there were two options it would be apparent which option may leave you worse off, hence it is clearer to see which should not be chosen and you hypothetically consent to the other if you were hypothetically asked. Waldron gives the example of the surgeon who is unsure whether to save the life of the unconscious accident victim, and it is clear if he was awake then yes and would have given explicit consent (ibid: 26). Consent here is not the basis for obligation, it merely helps us decide which institution that fits our criteria should be the single administer of justice (ibid). This is the main advantage of the natural duty of justice in that the main moral grounding is the justice not the mere expression of a choice (ibid). The reasons for having the obligation under the natural duty of justice is far more important than the terms of the contracts for such, which morally makes more sense in order to judge which institutions we have obligations to (Waldron, 1996: 1563). In the case of the mafia, we can clearly see that if faced with an equally effective government, the clear moral choice would be the government. This is established through the notion of hypothetical consent, which applies to the whole population of a state. What is therefore established is that the natural duty of justice therefore is particular enough to demand that we have political obligations to a single institution, which provides justice in a given territory.

The aim of this chapter was to prove that the natural duty of justice meets the particularity requirement set out by Simmons. Particularity is one of the conditions that must be met in order for a theory to explain political obligation. In showing that institutions are range limited, which creates “insiders” and “outsiders”, we have therefore seen that there is a clear difference between those two groups. It is also clear how long-term residents are indeed “insiders” as they, just like citizens, have potential

to be in frequent and sustained conflict with those who also live permanently around them. This chapter has then shown the natural duty of justice is sufficiently particular and when this given institution is just, effective and legitimate, we are required to comply. It is therefore not needed to separate the concept of particularity from legitimacy as we see in Walton, but in fact in proving the legitimacy of an institution, political obligations are also created. Hypothetical consent is what solidifies the claim that justice, not democracy is the main concern. As these just institutions apply to everyone in terms of a duty not to interfere, but demand full compliance from insiders, we can therefore see how the theory is sufficiently particular. This achieves the aim of this chapter and further adds to the thesis that long-term residents have the same political obligations as other permanent members living in a territory.

Concluding Remarks

Throughout this paper I have advanced the thesis that long-term residents have the same political obligations that a citizen would have in a state. In order to achieve this, the link between citizenship as the exclusive way to acquire these political obligations was dissolved. This meant a new theory and moral grounding was needed, which was found in the natural duty of justice. Having proved that the theory was sufficiently and even perfectly general, the next step was to address the particularity requirement. By discussing the limited range of political institutions and the hypothetical consent required to demand our compliance, we seen that the natural duty of justice was particular enough to satisfy the requirement. As we have proven that the natural duty of justice is general and particular in nature we now come to the conclusion that it is

the best explanation of political obligation. If this is indeed true then we can conclude a number of other sub-theses from this. Firstly we can cement the idea that long-term residents have the same political obligation as citizens due to their insider status, which was proven in chapter three. Secondly as long-term residents have the same political obligations, they are due the same rights as citizens and should be given them, due to the correlative nature of obligations and rights. This has major implications on the example of the EU citizens living in the UK after the conclusion of the Brexit process. These residents who are planning to stay in the UK after Brexit should have the same rights as British citizens. It is also obvious that this conclusion could be applied to a number of other rights such as the right to vote in all elections of long-term residents in the state they live. There is an almost unlimited application of the conclusions reached in this paper when we understand that obligations are not limited to citizenship and therefore neither is rights.

Bibliography

Dagger, R. & Lefkowitz, D. (2014). *Political Obligation*. In Stanford Encyclopedia of Philosophy, edited by Edward N. Zalta, retrieved October 20, 2019 website:
<https://plato.stanford.edu/archives/fall2014/entries/political-obligation/>

Hart, H. L. A. (1955). *Are There Any Natural Rights?* The Philosophical Review, 64(2), 175–191.

Kant, I. (1965). *The Metaphysical Elements of Justice* (J. Ladd, Ed.). Indianapolis: Bobbs-Merrill.

Rawls, J. (1999). *A Theory of Justice, Revised edition*. Cambridge: Harvard Univ. Press.

Simmons, A. J. (1979). *Moral Principles and Political Obligations*. Princeton: Princeton University Press.

Waldron, J. (1996). *Kant's Legal Positivism*. Harvard Law Review, 109(7), 1535–1566.

Waldron, J. (1993). Special Ties and Natural Duties. *Philosophy & Public Affairs*, 22(1), 3–30.

Walton, K. (2013). The Particularities of Legitimacy : John Simmons on Political Obligation. *Ratio Juris*, 26(1), 4–5.

