

A Theory of Political Obligation

*Membership, Commitment,
and the Bonds of Society*

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1

The Membership Problem

This chapter introduces the problem that is the focus of this book. It divides into two main sections. The first offers an initial clarification of some critical terms. The second distinguishes the problem at hand from a number of others that have been discussed in the literature of political philosophy.

1.1 The Problem

The Laws' Idea

More than two thousand years ago, the philosopher Socrates was condemned to death in the Athenian courts. After his death, his pupil Plato wrote an imaginary dialogue depicting the situation before Socrates' death sentence was carried out. Socrates' friend Crito, who believes he is innocent, is trying to persuade him to flee Athens to escape death. Socrates describes what he thinks the laws of Athens would say in opposition to Crito's urgings. The following quotation is from the speech he imagines:

if you cannot persuade your country, you must do whatever it orders, and patiently submit to any punishment that it imposes . . . And if it leads you out to war, to be wounded, or killed, you must comply, and it is right that you should do so.¹

Are the laws right? Is it the case that one must do whatever one's country orders? Must one do so even if one is likely to be maimed or killed as a result? Is it the case that one must take whatever punishment one's country has meted out? Must one do this even if one's death is a certain or near-certain consequence?

The question is not, it should be said, a question of what one can get away with. As Socrates' friend Crito makes clear in the course of the dialogue, it

¹ Plato (1978a: 51c). I shall cite only margin numbers for Plato's texts.

would be easy enough for him to flee from Athens to another jurisdiction where he could live out the rest of his days.

Clarifying the Issue

The question needs, in fact, a fair amount of clarification. Let me focus, first, on the fact that the laws refer to ‘orders’.²

I take it that to speak of orders or commands *presupposes* that it is in some sense incumbent on the recipient of the orders to do what he (or she or it) is ordered to do.³ For to issue a genuine order one needs the authority or standing to do so. One must, that is, have the right to be obeyed. This right entails an obligation to conform to the order on the part of its recipient. Thus, there is a sense in which he *must* conform. This may suggest putting the question as follows: does one’s country have the authority to give one orders? I shall adopt a different procedure, which is not to say that I shall ignore the topic of authority in this book.⁴

I understand the question in terms not of authoritative orders—if you like, genuine orders—but purported ones. A purported order may be an order proper, but it need not be. What is necessary for there to be a purported order is only the stance of the one who issues it. He must presume or, in effect, propose that he is issuing an order proper.

Carefully put, then, the question is this: must one act in accordance with one’s country’s purported orders—whatever they are? Should one fail to do so, must one then submit to whatever painful process one’s country metes out in response—even one’s death?

I do not write of *obedience* here, since obedience strictly speaking implies the existence of a genuine and not merely purported order. One can act in accordance with a merely purported order, comply with it, do what it says, and so on (these things all being more or less the same). One cannot, however, *obey* it. I take this to be a purely logical point. Both ‘order’ and ‘obedience’ are terms that, strictly speaking, presuppose authority.

I say ‘strictly speaking’ since there is no need to deny that these terms are sometimes used in a relatively loose way. Thus in describing an encounter with a gunman someone might say: ‘He ordered me to hand over my wallet.’

² The Greek verb for what is reasonably translated as ‘orders’ in the quotation is (in transliteration) *keleuein*.

³ For the sake of brevity I shall generally use the generic ‘he’. In the case of the generic recipient of orders I have here used the alternative ‘he or she or it’ rather than the conventional ‘he or she’ since orders can be given to collectives—as in ‘The government ordered the company to provide better health insurance for its employees’.

⁴ It is mostly addressed in Ch. 11, below, after the main theses of the book have been elaborated.

I take this to be a loose way of speaking. Be that as it may, it is a different way of speaking, assuming that the person who says this would not allow that the gunman had any kind of right to be obeyed.

I take punishment, strictly speaking, to be a matter of authority also. Someone who responds in a hostile fashion to one who fails to conform to a purported order of his own may describe himself as ‘punishing’ the nonconformist. Unless he has authority to punish, however, this is merely purported punishment—strictly speaking.

‘Punishment’, too, is a term that is sometimes used in what looks like a different way, one that does not presuppose authority. That such a different use exists would not be surprising given that the idea of punishment, strictly speaking, is a relatively rich one. It involves at least two things: some kind of negative treatment in response to an action of the person so treated, and the standing to impose such treatment in this case. It would not be surprising that a weaker notion involving only one of these things should coexist with the stronger notion. Similar things can be said with respect to those weaker notions of ‘order’, ‘obedience’, and so on that lack the presupposition of authority. For present purposes it is enough that a standard construal of these terms—which is the construal I adopt here—is indeed authority-presupposing. This means that one must exercise a special caution in using them in the present context.

The question I put here is not a better question than the one about authority. It is simply a different question, one that has much interested philosophers.

It will be awkward, in what follows, to use the rather cumbersome phrase ‘purported orders’. So I will mostly write of ‘orders’, simply. That purported orders are in question should be understood. The same goes for the other terms just mentioned, and any others that fall into the same category.

The laws address Socrates in particular. At one point in their oration they note that his circumstances are somewhat special. They are such that he, if anyone, should comply with their orders. They suggest, too, that Athens is somewhat special, being a well-governed state. They also emphasize that Athenian citizens can emigrate if they choose, something that might not have been the case. It is not clear precisely why they make note of these special features. For the quoted passage strongly suggests the following simple idea: one must conform to the commands of one’s country, and pay the ensuing penalty if one does not, *by virtue of the fact that the country in question is one’s own*. Without meaning to imply exegetical accuracy, I shall now refer to this as *the laws’ idea*.

The Laws' Allies

The laws' idea is not unique to them. Others have either expressed or reported on similar views. Thus in his now classic work, *Moral Principles and Political Obligations*, A. John Simmons writes:

Many people feel, I think, that they are tied in a special way to their government. . . . While they complain loudly and often, and not without justification, of the shortcomings of government, they feel that they are nonetheless bound to support their country's political institutions. . . . in ways that they are not bound to the corresponding institutions in *other* countries.⁵

In his classic work *In Defense of Anarchism*, Robert Paul Wolff writes in a more personal vein:

When I take a vacation in Great Britain, I obey its laws, both because of prudential self-interest and because of the obvious moral considerations concerning the value of order, . . . and so forth. On my return to the United States, I have a sense of re-entering *my* country, and if I think about the matter at all, I imagine myself to stand in a different and more intimate relationship to American laws. They have been promulgated by *my* government, and I therefore have a special obligation to obey them.⁶

Whatever the precise extent of this sense of things, it is clearly part of the experience of many.⁷

Wolff, like Simmons, found it hard to justify. Indeed, each of these philosophers argued, in his own way, that it was illusory. In contrast, a number of philosophers have maintained that it is incontrovertible.

Thomas McPherson is one of the authors in question.⁸ He writes:

Belonging in society involves. . . rights and obligations. Understanding what it is to be social would be impossible unless we understood what it is to have rights and obligations—and vice versa. . . . That social man has obligations is an analytic, not a synthetic, proposition. . . . 'Why should I obey the government?' is an absurd question. We have not understood what it means to be a member of political society if we

⁵ Simmons (1979: 3–4). He later (1979: 34 n. *h*) cites the observation by Ewing (1947: 213) that it is 'almost universally held' that we have some special obligation to *our* country. The conclusion of Simmons's book is that the feeling in question is (mostly) misguided. I discuss aspects of Simmons's discussion at various points in the text and notes below.

⁶ R. P. Wolff (1970: 18–19). Note the 'therefore' in the last sentence. Wolff's philosophical conclusion—as opposed to his pre-theoretical thoughts—on this matter is similar to that of Simmons. Both have been referred to as 'philosophical anarchists'. See Horton (1992: 123–36).

⁷ Its precise extent is of course an empirical matter about which there may yet be insufficient data. Cf. Green (1996) repr. in Edmunson ed. (1999).

⁸ Others include Pitkin (1966), discussed by Simmons (1979: 39); and MacDonald (1951), discussed by Horton (1992: 138–41). Horton himself develops what he sees as an argument of roughly this kind. I say more about his view later in the text.

suppose that political obligation is something that we might not have had and that therefore needs to be justified . . .⁹

Analytic Membership Arguments

McPherson here invokes a distinction from the philosophy of language, the analytic–synthetic distinction. I take his point to be roughly as follows. To say that the members of a political society are obligated to obey its laws is to say something that is true by virtue of the meanings of the terms involved. It is, in other words, analytic. Given the meanings of its terms, it cannot be false. It is true as a conceptual matter or as ‘a matter of logic’. It cannot be refuted by an appeal to experience. So it makes no sense to doubt it.

Something like the analytic–synthetic distinction goes back a long way. In the contemporary philosophical literature it has been famously criticized and defended.¹⁰ Discussions of this matter can go right to the heart of the philosophy of language and there is no possibility of engaging with them here. I take the debate to continue and shall allow that for purposes of this discussion a distinction along these lines is legitimate.¹¹

I shall refer to arguments like McPherson’s as *analytic membership arguments*.¹² Such arguments vary enormously in terms of their content, clarity, and sophistication. They may amount to little more than bare assertion. When that is the case I shall say that we are being offered a *general* analytic membership argument. When some argument is given, in particular when the connection between belonging in society and obligations is to some extent explained, however roughly, I shall say that the author proposes a *special* analytic membership argument.

Clearly, the sense of things expressed by proponents of analytic membership arguments accords with the laws’ idea. Like the people to whom Simmons refers, and Wolff in his pre-theoretical stance, they can be counted among the laws’ allies.

Before continuing I should make two terminological points. First, I originally couched the laws’ idea in terms of what one ‘must’ do (where this was not just a matter of what one could not get away with). Like McPherson, many contemporary authors write of ‘obligations’ in the present context. I take it

⁹ McPherson (1967: 64; see also 65).

¹⁰ The distinction was famously criticized by Quine (1951); and defended by Grice and Strawson (1956) among others.

¹¹ Cf. Gilbert (1989: 11).

¹² Pateman (1979) refers to ‘the conceptual argument’. Simmons (1979) writes of ‘the linguistic argument’. I used the label ‘analytic membership argument’ in Gilbert (1993c). The inclusion of ‘membership’ indicates what I take to be the central term or concept in the argument—at least in the version with which I was, and am, most concerned.

that if I have an obligation to do something then in some sense I 'must' do it. I recur to the topic of obligations at length later. For now I continue to write of 'obligations' without further comment.

Second, another 'slide' in the text here is from the reference to a person's 'country' to references (as in the quote from McPherson) to a 'political society'. Suffice it to say, for now, that the equation of one's country with the political society of which one is a member appears to be a natural one. The situation appears to be different with the term 'nation'. Sometimes this is used more as a synonym of 'people', where a people may not yet be organized into a political society. Sometimes it means something closer to 'country'. Sometimes, again, it is used in a context where, roughly, some person or body has control of a territory and engages in relations with other such persons. In such situations, too, there may be no political society.¹³

There have also been references in this section not just to orders but also to laws, governments, and political institutions. For purposes of this section I shall suppose that (purported) orders of some kind are at issue in all of these cases.

In a brief consideration of general analytic membership arguments, Simmons proposes that even if one accepts that a member of a political society, as such, has the relevant obligations one can still quite reasonably ask 'Why do members of a political society have these obligations?' 'On what are these obligations based?'¹⁴

Whether or not the supposed analytical connections exist depends, of course, on the notion of membership in a political society that is at issue. This brings up an important point. It is not necessary to suppose that there is a single 'correct' understanding of what membership in a political society is. There may be one plausible way of understanding this, given standard meanings of the relevant terms, or there may be several. A theorist may or may not be concerned with standard meanings. He may wish, rather, to stipulate a definition that is intended to capture an important phenomenon he takes to be worthy of the name.

Each theorist therefore needs to say something about his own understanding of what membership in a political society amounts to. It may be that one can make an analytic membership argument for the construal he has in mind, but not for others.

In mounting his arguments against the laws' idea, Simmons is not explicit on this matter. Evidently he is mostly operating with quite a broad notion of membership in a political society. On one occasion he allows that there is a narrower notion in relation to which there is a tight, if not analytic, relationship

¹³ Compare Walzer (1977: 54).

¹⁴ Simmons (1979: 42).

between membership and obligation.¹⁵ He refers, here, to membership ‘in the full sense of the word’. Given his overall argument and negative conclusion, however, he clearly has another sense of the word in mind most of the time.

I take Simmons to be correct in suggesting that general analytic membership arguments raise at least the following two issues. First, is there indeed some conceptual connection between membership in a political society—under some natural construal—and obligation? Second: what is the ground of the obligation? Can it be given an articulate basis?

Some Immediate Concerns

i. Is there Some Confusion? One may think that there is a serious problem for all analytic membership arguments. For one may think, in somewhat vague and general terms, that whether or not someone is a member of a particular political society is a matter of natural fact, whereas whether or not he must do such-and-such or has obligations is not a fact of this kind. It is, if you like, a non-natural fact.¹⁶ One may then infer that any analytical membership argument must be confused. How can ‘I am a member of a political society’—a natural fact—logically imply ‘I have obligations’—a non-natural fact? In pursuit of this line of thought, one might wonder whether some non-natural premiss—some moral claim, perhaps—is being slipped into the argument.

ii. Morally Unacceptable Institutions It could be wrong, of course, to think someone’s being a member of a particular political society is a matter of ‘natural’ fact—depending on what that comes down to. On the other hand, some ‘non-natural’ premisses may look implausible from the start.

Thus one might suspect that the argument depends on a definition of ‘political society’ such that a political society cannot be evil. Without entering into the question yet as to what a political society is, it may seem implausible to deny that there can be an evil political society. Someone who is of this opinion may voice the following concern in relation to analytic membership arguments. Given the possibility of evil political societies, how can it be that the members of *all* political societies are obligated in the way suggested? That is, after all, what those who put forward analytic membership arguments claim. They do not refer to membership in *good* political societies, but to membership in political societies, full stop.

¹⁵ Simmons (1979: 140).

¹⁶ Compare G. E. Moore’s allusion to the ‘non-natural’ property of goodness. He contrasted goodness with yellowness, which he deemed a ‘natural’ property in Moore (1968).

Some may not be comfortable using the epithet ‘evil’, generally or in this context. The question at issue does not depend on its use. It is surely pertinent to at least some morally flawed societies that do not count precisely as evil.¹⁷

A related issue is this. What if, in the midst of an otherwise good set of orders, a morally wicked order appears? The idea that one could be obligated to conform to such an order may seem preposterous—or at least to stand in need of explanation.

As to punishment, what if a court’s judgement is on a given occasion erroneous or the penalty it imposes excessive? Many would argue that the case of the historical Socrates involved both of the last. They would argue that he was not a malign influence on the youth of Athens, as he was alleged to have been. They would argue, further, that even had he been such an influence, the death penalty was too great for such a crime, if it is acceptable for any. Was he obligated to submit to this penalty? Was there any sense in which he *must* do so?

iii. What Kind of ‘must’ and How Significant? One might indeed wonder exactly what it can mean to say that one *must* obey one’s country’s orders. Here I revert to the language in terms of which I first formulated the laws’ idea. The same worries may arise if the idea is couched in terms of obligation.¹⁸ Can doing something contrary to what one’s country orders never be justified? Perhaps if one drives without stopping at a stop sign on the road one can avoid being killed by a rogue driver. Surely it cannot sanely be argued that one must abide by the law on that occasion?

Again, must one—in some sense—conform to absolutely all of one’s country’s commands? What if one is driving towards a stop sign in an empty desert? In what sense must one stop? Is there such a sense?¹⁹ How, if so, can this ‘must’ be the same as that in the laws’ claim, which appears to discount one’s interest in not dying? The laws do say, after all, ‘if it leads you out to war, to be wounded or killed, you must comply’.

These are all good questions and they all press on the question: of what kind is the ‘must’ at issue? What intelligible role can it play in persuading Socrates to drink hemlock and die as the laws command? They also make clear something I take to be central to the laws’ idea, a point worth amplifying here.

One’s country’s commands are likely to be many, and they will probably vary along several dimensions. Consider, for instance, the personal effort needed

¹⁷ Compare Dagger (2000).

¹⁸ Later I focus on the latter formulation.

¹⁹ See Smith (1973).

for compliance. Conforming to some—participating in military operations, say—will be extremely demanding in terms of personal effort. Conforming to others—for instance, stopping one’s car at a red light—will rarely be at all demanding. Similarly, the personal risks involved will vary enormously.

Again, one’s country’s commands may vary greatly with respect to the likely harm—in the sense, roughly, of pain and suffering—caused by a given person’s nonconformity. In some cases one person’s nonconformity will inevitably cause serious harm. For example, one person’s contravening a law against violent assault will doubtless involve both mental and physical harm to those who are assaulted. In others nonconformity is unlikely to be a grave matter.²⁰ A given person’s failure to buy a dog licence will generally not harm anyone seriously. True, the public coffers will be out a pound or two. That is nothing compared to the loss of a life or a limb.

In yet other cases, indeed, nonconformity will be the *least* harmful option. Conformity may harm the person conforming it, it may harm others, or that person and others as well. This may mostly be the case when the command is clearly a morally unacceptable one. It can also happen as a result of unforeseen consequences of an apparently reasonable order, as the example of the need to run a stop sign in order to avoid death at the hands of a rogue driver shows.

In the case of some commands the default of many will cause serious problems for the country by virtue of the nature of the law in question. In the case of others, it will not. Rampant violence would clearly be a serious problem, not only for those directly hurt by it, but for those involved in law enforcement and in aiding the victims of violence, and those whose sense of personal security from violence is threatened.²¹ Rampant driving above an unnecessarily low speed limit is different. Overall, it may do more good than harm, insofar as people get where they are going sooner. And if all drive at the same speed there will be less risk of collision.

Nonconformity with one and the same general command may vary enormously in its consequences depending on the context. Suppose that in your country the signal to traffic to stop is a particular type of red sign. Not stopping at such a red sign at a busy intersection could directly result in grievous harm to many people; not stopping at such a sign in an empty desert is unlikely to harm anyone.

The point to be made here is this. The laws’ idea does not discriminate among the commands and contexts mentioned. According to the laws’ idea, if one’s

²⁰ It may always be somewhat problematic for the society as a whole. See Ch. 11, below.

²¹ J. S. Mill (1979: Ch. 5), urges with undoubted perspicacity that a sense of security is necessary to human happiness.

country has issued the relevant commands then for that reason—irrespective of any others—there is a sense in which one must obey them.²² Can something be made of this idea? Evidently this ‘something’ should satisfy at least the following conditions. It should deal plausibly with the case of morally unacceptable laws and legal systems. It should explain how otherwise pointless conformity can in some sense be mandatory. And it should show how this explanation relates to the case where my conformity is liable gravely to disadvantage me or others that I care about.

The Problem Restated

Must one obey the commands of one’s country simply because it is one’s country? This is a version of what has become known in philosophy as *the problem of political obligation*. In what follows I rephrase the question precisely in terms of obligations: is one obligated to obey the commands of one’s country simply because it is one’s country? As noted earlier, putting the question this way follows a standard contemporary practice.²³ The answer depends, clearly, on what an obligation is and on what it is for a country to be one’s country. More will be said on both counts in due course.

The laws of Athens refer to doing whatever one’s country orders or commands. What should one think of as included in these orders? Of course one’s country’s laws go in—if it has laws.²⁴ It is common, indeed, to put the question associated with the laws’ idea as follows: ‘Is there a special obligation to obey the laws of one’s own country?’ This is certainly an important if not central part of the question. It is, one might say, emblematic of the problem as a whole. Nonetheless one can usefully frame the question in broader terms. There is more than one reason to do so.

One has just been indicated: a country may not have laws according to reasonable accounts of what a law is. I have not yet said what I take a country to be, but the point can be made in advance of any such statement. The question ‘what is a law?’ has been much debated.²⁵ The narrower one’s account of laws, the more likely it is that there are countries which, though not ‘lawless’, are without laws strictly speaking. For example, various rules may gradually become established in a society without being the product of any formally constituted legislature or lawgiver.²⁶ Some such rules have, indeed,

²² Compare Klosko (1992: 3).

²³ Though not a universal one. Another common phrasing refers to ‘duty’. For more on these terms see Ch. 2, below.

²⁴ ‘... if it has laws’. See the text below.

²⁵ Classic texts include Hart (1961); Dworkin (1977).

²⁶ See Ch. 9, below, for an extended discussion of the nature of such ‘informal’ rules.

been referred to as constituting 'customary law'. Suppose, however, that one's preferred account of a law for some reason excludes such rules. It seems one should allow, in spite of this, that the laws' question was relevant to countries without laws proper.²⁷

Even given a relatively narrow account of a law, there are important distinctions to be made among laws, and speaking of an obligation to obey the law may tend to focus attention on one particular type of law at the expense of other types. Thus, speaking of laws may tend to conjure up those relatively mutable laws that are not part of a constitution. By a constitution I mean something like this: a framework of laws in accordance with which other laws are made and unmade, a framework of laws which, though they may themselves be mutable to some extent, are understood to be more basic and less mutable than are other non-constitutional laws.²⁸ In their speech, the laws of Athens do not distinguish between constitutional and other laws, and this seems to be the right approach. It is standard, after all, to consider the constitution together with the other laws of a country as a kind of unity, a legal system.

Speaking of laws may also lead one to overlook that class of laws that deals with non-compliance to other laws and, importantly, the question of punishment. These will include laws about who may intervene in behaviour perceived to be non-compliant, how the reality of non-compliance is to be determined, who is to decide on punishment, and which punishments are applicable for a given type of delict. The laws of Athens suggest, reasonably, that submitting to punishments that are imposed through due process of law is a way of obeying one's country's orders. They implicitly distinguish the laws regulating the process of punishment from others, and this too seems reasonable. Their inclusion in the class of one's country's orders, however, is not in doubt.

The laws' idea seems naturally to extend to matters other than conformity with rules and laws of whatever kind. Suppose, for instance, that one's country, A, embarks on a defensive war against another country, B. It is consonant with the laws' idea that one has some obligations in this regard, by virtue of the fact that country A is one's own country. Irrespective of any laws to that effect, one is presumably obligated not to give country A's military secrets to B, thus undermining A's war effort.²⁹

²⁷ There is more on behalf of this point in Ch. 9, below.

²⁸ Thus an amendment to the so-named US Constitution can only be made under conditions different from and stricter than those of amendments to laws not part of the Constitution. By a 'non-constitutional' law I do not of course mean an 'unconstitutional' law.

²⁹ Cf. Simmons (1979: 5).

To get around such problems, I shall not formulate the question of this book in terms of conformity to laws. Rather, following a somewhat established tradition, I shall formulate it in terms of supporting or upholding political institutions.³⁰ I take a country's *political institutions* to be those of its institutions that pertain to its governance. I understand these to include both certain relatively 'free-standing' social rules and complex legal systems, both particular rulers and established procedures for arriving at a ruling body. It may seem odd to think of a particular king, say, as a political institution. This may seem less odd when one is clear that it is that person's rule or that person as ruler rather than that person himself or as an individual that is at issue. *Supporting* or *upholding* political institutions will be understood to include but not be limited to conformity to those political institutions, such as laws and commands, in relation to which the notion of conformity makes the best sense. In all of this the earlier caveat about authority holds. Insofar as government or 'rule' in all its forms implies the authority to rule, the question concerns purported rule, something that would, *given* the right authority, be rule proper.

The question at issue in this book can now be formulated as follows. Is one obligated to uphold the political institutions of one's country, simply because it is one's country? It could sometimes be unclear how one is to fulfil a *general* obligation to uphold one's country's political institutions. Perhaps there is a conflict between different elements of the relevant set of political institutions so that in complying with one law, say, one thereby violates another. If there is no clear answer as to which law takes precedence, then what one should do to accord with one's general obligation will be moot. For the sake of the discussion here I shall assume it is often clear enough.

Political Obligation Defined

As should now be clear, this book is concerned with a general obligation that conforms to a complex specification. It has both a particular source and a particular content. As to its content, it is an obligation to uphold the political institutions of one's country, whatever precisely these are. As to its source, it is an obligation one has by virtue of the fact that the country in question is one's country.

Unless the context indicates otherwise, the phrase 'political obligation' will be used in what follows to refer to the general obligation just specified—if such there be. If there is no such general obligation then there is no political obligation in the sense in question.

³⁰ Cf. *ibid.* Walzer (1970: p. xiii) writes rather of a 'political system' that is a matter of 'rules'.

Similarly, the phrase ‘political obligations’ will be used to refer to whatever specific obligations fall under this general obligation. Thus Jane’s political obligations will be all the specific obligations Jane has, given her general political obligation. They may range from obtaining a dog licence, say, to joining the army. The details will depend on the particular political institutions of her country. Once again, it could be that there are no political obligations.

It is important to understand that the foregoing definitions are stipulative. The phrases ‘political obligation’ and ‘political obligations’ are hardly part of vernacular usage, so each theorist needs to make clear how he is construing them. Others have used the phrase in ways other than mine. There is nothing wrong with these ways, but confusion could result if the possibility of divergence is not understood.

Given the foregoing definitions, the question of this book can now be put compactly thus. Are there political obligations? As I now explain, this question can be construed as relating to membership in a particular type of social group. Thus the problem of political obligation meets the theory of social groups.

The Membership Problem

Are there political obligations? Given the preceding definition of such obligations this clearly depends on what a country, and more particularly one’s own country, is. The term ‘country’ has had a full life in vernacular usage. Doubtless different people, theorists included, use it in somewhat different ways. For present purposes I adopt a standard construal mentioned earlier: I take a country to be a type of political society. I take a political society, in its turn, to be a society with a set of political institutions and I take a society to be a type of social group.

I later argue in detail for a particular account of such groups. For now I restrict myself to some brief preliminary remarks on the relatively narrow sense of ‘social group’ I have in mind. Merely having a distinguishing feature in common, however significant that feature, is not enough to make the members of a given population into a social group in this sense. The population consisting of all human males, for instance, does not as such constitute a social group in the sense in question. To point the contrast, such a population may be referred to, in an echo of Rousseau, as a (mere) aggregate of human individuals—albeit in this case an aggregate of human beings differentiated from others by the possession of a significant common feature.³¹ The same goes for the smaller population consisting of all men with a particular sexual orientation, for

³¹ In Ch. 5 of the *Social Contract*, Rousseau (1983: 23) contrasts an ‘aggregation’ with an ‘association’.

instance. Its members will not count as members of a social group simply by virtue of their possession of this common feature. Nor will people all of whom hold a particular belief or set of beliefs count as a social group merely by virtue of that fact. The point is not that there is no viable notion of social group that would include some or all of these populations, but rather that the notion with which I am concerned here is a narrower one.

A brief informal list of examples of social groups of the type I have in mind might include discussion groups, families, trade unions, sports teams, terrorist cells, and armies. Of course, there are important differences between these groups, but to many they seem at one level to be ‘all of a kind’. Among other things, they are not mere aggregates. I shall in due course carefully pursue the question of what, at the most general level, distinguishes them from such aggregates. A given aggregate could, of course, develop into such a group. The question is: when and how has that transition occurred?

When is a social group a society? A variety of social groups have been referred to as ‘societies’. They tend to be large. They can, however, be very small. Indeed, John Locke said that the first society was that between man and wife.³² And there are secret societies, and so on, that may be quite small. As to political societies, even very small groups may have political institutions as I understand these. That is, such a group may have institutions relating to its governance. For example, in a particular marriage it may be established that, as it is sometimes put, one spouse’s ‘word is law’. This marital couple, then, will count as a political society in the broad sense just defined. People would not normally refer to all ‘political societies’ in this sense as ‘countries’, which is why I said that I take a country to be but a type of political society. It is not the only type of political society. What differentiates a country from political societies of other types? Briefly put, some central points are as follows.

First, a country generally, if not by definition, has a relatively definite, relatively permanent location—it persistently occupies a certain geographical area or land mass. The precise boundaries of this area may or may not be in dispute with other countries. It may or may not increase or decrease in size over the years. Second, this geographical area, or territory, is typically quite large. That is not to say that different countries may not occupy territories of widely differing sizes, some being tiny in relation to others. Once more relating to size, countries tend to be relatively large political societies in terms of the number of their members. That is not to say, again, that they cannot vary widely in this respect. Size of membership and size of territory may tend

³² Locke (1980: Ch. 7, sect. 66, p. 42).

to be correlated, but a country that is territorially vast may have a smaller population than a country with a considerably smaller territory.

Given its relatively large size, the next point is not surprising. A country is a political society of a type that is likely to include within it other, smaller societies including political societies. Thus in *The Rules of Sociological Method* the sociologist Émile Durkheim contrasted the wider society with the smaller societies that it encloses, societies such as trade unions and literary societies.³³ Consider also philosopher John Rawls's reference to a 'social union of social unions' in *The Theory of Justice*.³⁴ To some extent this is true of all societies of more than two people. Thus family therapists often point out that there may, for instance, be a coalition of mother and son within the family of father, mother, and son. One would suppose, however, that the larger the group, the more likely its inclusion of smaller groups within it.³⁵

Finally, and relating to all of the previous points, a country is a political society of a type within whose territorial boundaries its members can live 'whole lives'. They may be born, socialized, educated, employed, married, and buried there. Though many people leave their countries of origin permanently for one reason or another, many do not, and do not feel the need to. They are therefore likely to have some familiarity with the society's history and to be skilled participants in a relatively rich set of local practices and conventions that have developed over an extended period of time—perhaps over many generations.

Given only these points one can already see why someone's country is liable to arouse those sentiments referred to as patriotic. *Patria*, of course, is the Latin word for *country*, and is linked in its turn to *pater*, father.

As I shall understand it in this book a country is the country of a particular person if and only if that person is a member of the political society that constitutes the country in question. The country I call 'mine' in the relevant sense can at the same time be referred to as 'our' country by me and its other members. The same goes for the political institutions of the society: they will be *our* political institutions, in that we are all members of the society whose institutions they are. The legal system—if there is one—will be ours; the ruler—if there is one—will be our ruler. As the last sentence indicates, I see no reason to limit the idea of a country to any particular form of political organization.

It may be that membership in any social group involves obligations. If so, political obligations may constitute the political society version of these

³³ Durkheim (1982: 52).

³⁴ Rawls (1971: 527).

³⁵ I say more on the nature of such inclusion in Ch. 8, below.

obligations of membership. That there are obligations of membership in general is an important part of what I shall argue.

I refer to the question on which I focus as *the membership problem*. One way of putting it is as follows. Does membership in a political society in and of itself involve obligations to uphold the relevant political institutions? Alternatively: are there plausible senses of the relevant terms such that membership in a political society obligates one to uphold its political institutions?

The second formulation makes it clear that several of the significant terms involved—including ‘political society’, ‘member of a political society’, and ‘obligations’—are susceptible of different interpretations, and that it will be incumbent upon one who gives a satisfactory answer to clarify the interpretations in question. The first formulation may be called *the material formulation*; the second, *the conceptual formulation*. The material formulation is less cumbersome, and I shall often use it. At the same time, I consider the conceptual formulation primary.

1.2 Four Distinct Questions

The membership problem is distinct from a number of similar questions that have been referred to in the literature as ‘the problem of political obligation’. In this section I focus on four such questions. They are all significant and interesting. It is important to distinguish them from the membership problem. Though they are not the focus of the present work, it bears on all of them.

Questions about Residents

Suppose someone says, ‘Do this!’ or ‘Don’t do that!’—addressing a purported order to another person or to a number of other people. Under what circumstances, and why, are they obligated to comply? More briefly, when and why is anyone obligated to do what he is told?³⁶

In the literature of political philosophy less basic versions of this question are common. These refer to a situation in which there is a ‘government’, ‘state’, or ‘country’, terms all of which may be variously construed and need to be elucidated if one is to be clear about the general situation that is supposed to be at issue.

In order to give the flavour of these versions and to generalize from a variety of texts, I first introduce some relatively technical terms. I shall use the

³⁶ See Klosko (1992: 1).

term ‘imperator’ for a person or collective body which addresses (purported) orders to everyone who resides in a certain geographical area or territory.³⁷ An example of such an order is, ‘Everyone living on this island, drive on the right!’ A broader notion of an imperator would involve orders intended to apply to all who fell under a certain description, which might or might not relate to the matter of where they resided. For instance, it might be addressed to all who wished to be considered faithful followers of a particular person or deity, or to the descendants of a particular person. The narrower sense will suffice for my purposes here.

An imperator in my technical sense may or may not issue credible threats to punish those who do not comply with its directives, and it may or may not be generally complied with by the residents of the territory in question. Such an imperator contrasts, then, with the richer image of one whose commands backed by threats are accompanied by a habit of obedience among those who do as he commands them to do.³⁸ The same goes for other contexts in which an imperator in this sense may operate. I shall refer to the geographical area targeted by a given imperator’s imperatives as ‘an imperator’s territory’ and to those who reside in an imperator’s territory as ‘residents in an imperator’s territory’ or ‘residents’ for short.

One common ‘problem of political obligation’ is roughly this. Under what conditions are residents obligated to comply with the imperatives of the relevant imperator? Thus Gregory Kavka writes:

What moral reasons, grounds, or considerations, if any, imply that individuals residing within the territory of a State (or a State of a certain kind) ought to obey the laws and directives of the officials of that State? This, in broad terms, is the problem of political obligation, which concerns whether and when there is a moral justification of political obedience.³⁹

Note, in particular, that Kavka asks whether ‘individuals residing within the territory of a State . . . ought to obey the laws and directives of the officials of that State . . .’.

What Kavka describes as the problem of political obligation differs from the membership problem in at least four ways. The first difference is the most significant for the purpose of this subsection. It does not put the nature of

³⁷ It would be hard to use any word in this context that did not have some connotations going beyond the mere issuance of imperatives. For most English speakers, though, this Latin word will be less familiar than many that could be used.

³⁸ This image is familiar to many through Hart (1961: 18–19), referring to the jurist John Austin’s conception of law.

³⁹ Kavka (1986: 385).

membership in a political society at its core. It does not preclude membership in a political society from being part of the answer, but it leaves open the possibility of answers that do not appeal to such membership, nor, indeed, to residence as such. Such answers might refer, for instance, to the quality of the orders (such as their utility) or of the emperor (such as its wisdom, justice, or efficiency).

Second, and relatedly, Kavka explicitly envisages the possibility of a variety of grounds for obedience. In contrast, the membership problem is concerned with only one such ground—membership as such. It is true that there could be different forms of membership, and different grounds of obligation for different forms of membership.⁴⁰ On the face of it, then, the membership problem might receive a conjunctive rather than a simple answer. I say more later about how one might decide between several otherwise plausible solutions that invoke different forms of membership. Kavka's concerns are still in principle less restricted than those of the membership problem, which is only concerned with a specific type of ground of obligation or, more broadly, reason for compliance, namely, membership in some intuitive or everyday sense.

A third difference between Kavka's problem of political obligation and the membership problem as I have stated it is this. In explaining his problem Kavka refers not to obligations but to 'reasons, grounds, or considerations'.⁴¹ I focus on this way of formulating the problem shortly. I shall also focus shortly on the fourth difference, which is that Kavka qualifies the kinds of reasons he is interested in as 'moral' ones.

In the statement of the problem quoted above Kavka suggests, in parentheses, that it is possible that only residence in the territory of a certain *kind* of State will involve obligations. This is a common idea in discussions of the problem of political obligation. Indeed, many make it clear at the outset that they are interested only in the case of political societies much like their own.⁴² Suffice it to say, for now, that the membership problem alludes to no analogous distinction among kinds of political society. The issue concerns political societies in general, whether or not they can be properly referred to as democratic, liberal, relatively just, or whatever. I say more, shortly, about the appropriateness of leaving things open in this way.

I return now, to the first difference between Kavka's problem of political obligation and the membership problem. The point to be made here—in terms of obligations—is this. One must distinguish two questions. The first concerns the conditions under which residents have obligations with respect

⁴⁰ Cf. Locke (1980); Tussman (1960).

⁴¹ See also Kavka (1986: 308 n. 39).

⁴² See e.g. Klosko (1992: 122–3).

to the purported orders of the relevant imperator, or similar matters. This may be termed, for short, *the residence problem*. The second—the membership problem—is posed in terms of membership and concerns the obligations of members of a political society as such.

Though distinct, these problems are not unrelated. Certainly the membership problem bears on the residence problem. Suppose one has successfully argued for obligations of membership in a political society, obligations to uphold the political institutions of the society. Suppose that according to one's understanding of such membership, plausibly, it is not simply equivalent to residence in the territory of an imperator.⁴³ In spite of that, the residence problem will then be at least partially solved. For suppose that the residents in the territory of a given imperator are also members of a political society, and the ruler of that society is the imperator in question. His rule, that is, is one of the political institutions of the society in question. The argument will have shown that residents of this kind, at least, are obligated to comply with the orders of the imperator insofar as he is indeed their ruler.

In discussing the membership problem one might, less plausibly, operate with a broad notion of membership in a political society that was more or less equivalent to that of residence in the territory of an imperator. One would then ask whether membership in this broad sense was itself a ground of obligation. If the result were positive, this would of course provide a positive answer to both the residence problem and the membership problem: at least one kind of membership would be obligating, as would residence. If the result were negative that would not conclude discussion of the membership problem, however, insofar as narrower notions of membership remained to be investigated. Nor would it conclude discussion of the residence problem, insofar as membership in whatever sense is not the only possible ground of obligation of residents in the territory of an imperator.

Questions about Obligations Characterized as 'Moral'

A preponderance of writers concerned with a 'problem of political obligation' assumes that a particular species of obligation is at issue, namely, moral obligation.⁴⁴ This goes both for those who are concerned with the

⁴³ The idea that membership is equivalent to residence is not intuitive. Nor are several more qualified notions that might be derived from versions of the residence problem. For instance, the benevolence of a given imperator or his ability to back up his edicts with considerable force would not, in and of itself, seem to make residence in the relevant territory a form of societal membership.

⁴⁴ Thus e.g. Singer (1973: 3) 'If there is any obligation to obey the law it must, ultimately, be a moral obligation'; Horton (1992: 13) 'Political obligation concerns the moral or ethical bonds between individuals and their political community'. See also, among others, Sesonke (1964); Honderich (1976); Simmons (1979); Kavka (1986).

residence problem, discussed above, and those who are concerned with the membership problem.

Though it has been mooted, the claim that ‘political obligations’ are not moral obligations has not been found convincing. Several authors cite McPherson as one who has claimed that political obligations are not moral ones. Simmons observes that McPherson is ‘not particularly clear about the status or character of his “nonmoralized political obligations”’.⁴⁵

Among those who say that moral obligation is at issue, many leave it at that, without attempting to say what moral obligation is. One writer offers a characterization of ‘moral’ considerations but allows that there is room for disagreement on the matter and suggests that readers will do best to rely on their intuitive or pre-theoretical understanding.⁴⁶

Sometimes an author appears to be assuming a residual definition of ‘moral obligation’. That is, moral obligations are defined, explicitly or implicitly, as whatever obligations are not obligations of another, given sort. For instance, moral obligations are often residually defined—at least implicitly—as those obligations that are not legal obligations. This is a legitimate procedure. One problem with it, however, is that without some anchoring of the non-residual category the domain of the residual one may be left obscure. Another difficulty is that the residually defined category may be so broad as to include so-called obligations of significantly different types. I should emphasize that I use the term ‘so-called’ here, and in other contexts, without intending anything pejorative. ‘So-called’ obligations are those things, whatever they are, that have been referred to with some regularity as ‘obligations’ by speakers of English.⁴⁷

Many philosophers who write of moral obligations appear to be operating with an intuitive, substantive conception of morality in mind. It is not an easy task to say precisely what this conception amounts to.⁴⁸ Nor is it easy to demarcate its contours. This demarcation problem is, indeed, surprisingly rarely a focus among those whose explicit concern is moral theory. It is therefore

⁴⁵ Simmons (1979: 4) citing McPherson (1967). See also Singer (1973). For a relatively extended critical discussion of McPherson, see Horton (1992). R. M. Hare (1989: 8–9) fears that claiming political obligations are not moral ones could lead people to ignore moral issues when confronted with political obligations. That depends, of course, on precisely what political obligations are understood to be.

⁴⁶ Singer (1973: 4–5): ‘That is all I shall say about the meaning of “morality”. If the reader disagrees, or is puzzled by what I have said, he will probably do better to read on. . . . I do not think that the way I use the term “moral” in the remainder of this book will cause much difficulty.’

⁴⁷ I understand that there are languages that have no exact equivalents of this term, something that is not surprising given the range of things that the English term has come to cover. It is to be hoped that, nonetheless, the discussion will be pertinent to the concerns of those whose main language is other than English. After all, my ultimate concern here is with a thing or things—obligation—rather than a word. The same goes for the other terms and phrases on which I focus in this book.

⁴⁸ It may be a mixture of separable conceptions. See e.g. Scanlon (1995).

understandable if, as is generally the case, the conception in question receives little explication in discussions outside that discipline.

Theorists of political obligation may, of course, stipulatively define ‘morality’ and ‘moral obligation’ however they wish. Confusion is likely to result, however, the further removed their stipulation is from the intuitive notion just referred to, unclear though its boundaries are.

The closer to that notion their usage is, meanwhile, the greater the danger that insisting that political obligations are moral obligations risks putting an important class of obligations beyond their purview. At least on the face of it, there could be obligations that are genuine in an important sense, though they do not count as moral obligations according to the intuitive notion in question. The sense I have in mind is this: if one has a *genuine obligation* to do a certain thing, one then has sufficient reason to do that thing. I say what I take this to mean in the next chapter. This characterization makes no attempt to specify what an *obligation* is: it only has to do with what I am calling the genuineness of an obligation.⁴⁹ As I explain in the next chapter, some so-called obligations are not genuine in this sense.

Compare, in this connection, the matter of moral *reasons*. According to a standard intuitive conception there are reasons for acting that are not moral ones. Thus the philosopher Thomas Scanlon writes: ‘when one concludes that an action is [sc. morally] wrong, this entails the recognition of a *particular kind of reason* not to do it’ (my emphasis).⁵⁰ To invoke another, quite popular term, the *normative* realm is generally considered to have a broader purview than the moral realm. A theorist who stipulated that all reasons were moral reasons on his definition of ‘moral’, or that the normative realm was coextensive with the moral realm, would thus be blurring intuitive distinctions. The point just made may help to make palatable the idea that genuine obligations need not always be moral ones.

In formulating the membership problem I have not restricted its concern to obligations characterized as moral. I do, however, take its focus to be what I have just referred to as genuine obligations.

Here is one reason for leaving things open. Suppose, first, that those who are members of a political society have what are, intuitively, genuine obligations to uphold the political institutions of that society. Suppose, second, that these obligations are *not* moral obligations in an intuitive sense or, for that matter, according to a given theoretical account of morality. It would clearly be

⁴⁹ Perhaps ‘effectiveness’ would be a better term, since I have in mind a positive relation to reason, in other words, a particular kind of normativity. As long as the definition is clear the particular label should not matter.

⁵⁰ Scanlon (2003: 283).

unfortunate if, having explored the moral question and reached the conclusion that membership does not involve *moral* obligations, one abandoned the topic and failed to discover that there are in the appropriate sense non-moral but genuine obligations of membership.

This is not, of course, to deny that we want to know what our intuitively moral obligations are with respect to the political realm. It is only to say that if there are genuine political obligations of another sort, we should want to know about them and understand their nature also.

Some theorists argue that morality is a chimera. It has been argued, for instance, that our everyday moral discourse involves erroneous presuppositions.⁵¹ These theorists would presumably deny without reflection the existence of political obligations conceived of as moral obligations. On the face of it, they could still contemplate the existence of political obligations *not* characterized as moral. Thus an inquiry couched in more neutral terms is likely to attract more followers and to avoid that kind of rejection at the outset.

The main purpose of this section has been to make the following clear. In asking after the existence of political obligations in the sense of this book I am asking precisely whether and how people have *genuine* obligations in the sense defined with the source and content at issue. Whether these qualify as moral on one or another conception is not my primary concern.

As to the conception of morality at issue in this book when references to something qualified as ‘moral’ occur in passing, I take myself, like many others, to be operating with a substantive notion of morality. Precisely how this notion might be explicated is not common important for present purposes.⁵²

Questions that do not Relate Specifically to Obligations

In a passage quoted earlier, when explaining the problem he characterizes as ‘the problem of political obligation’, Gregory Kavka refers not to obligations but rather to (moral) ‘reasons, grounds, or considerations’. There is something a little puzzling, perhaps, in calling something ‘the problem of political obligation’ while setting it out in other terms. Clearly, though, many of those who write on a problem they characterize as a problem of ‘political obligation’ are relatively unconcerned with whether what they are talking about naturally attracts the label ‘obligations’ as opposed, say, to ‘duties’ or ‘requirements’, or, indeed, ‘reasons’ or ‘grounds’.⁵³

⁵¹ See esp. Mackie (1977). ⁵² Cf. Singer (1973: 5).

⁵³ This may be because they do not believe there is an affirmative solution in terms of obligations as opposed to reasons. See e.g. Lacey (1988: 121–2).

In contrast, the problem I focus on here—the membership problem—is a question about obligations specifically. I believe this question can be given a positive answer, an answer that will be developed in this course of this book. This will at the same time explain how membership in a political society, understood in a certain way, is a source of what might also be labelled ‘duties’, ‘requirements’, ‘reasons’, and ‘grounds’ for obedience—depending precisely on how these terms are construed.

I do not mean to imply that inquiries that fail to focus on obligations are in any way unworthy. I wish simply to emphasize that ‘obligation’ is a key term in this particular inquiry. In the next chapter, I give a partial characterization of obligations in terms of certain salient conditions. What I shall eventually argue is this: there are obligations inherent in a fundamental form of membership in a political society that fit both these broad conditions and further important specifications.

Questions about Liberal Democracies or other Particular Kinds of Polity

Many theorists who discuss a ‘problem of political obligation’ make it clear at the outset that they are only interested in a particular, preferred kind of political society. Often this is referred to as a liberal democracy.⁵⁴

That one currently resides in such a society may be part of what enables one to raise and freely discuss this kind of question. However precisely its details and its animating ideas are spelled out, such a society may indeed be far preferable to any other kind. That does not mean that one should ignore the situation of those whose situations differ strongly from one’s own. History and, indeed, contemporary life are full of kings and tyrants, of societies in which there are few freedoms, of societies that are not democracies in any standard sense.

To ignore such situations, is not only to exhibit a degree of parochialism. Such parochialism, though hardly a virtue, is not exactly a vice. A desire to limit one’s concerns to one’s own situation is understandable enough. So limiting one’s concerns, however, risks failing to discover such obligations as may be found in political societies of all stripes, *including* one’s own. Thus, however parochial our interests we stand to lose something important to our concerns if we fail to look beyond our own situation. The membership problem as I understand it concerns political societies generally—not societies of a particular type.

⁵⁴ As in Klosko (1992).