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Political obligation as a moral necessity

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CHAPTER 4 PARTICULARIZING POLITICAL OBLIGATION

1. INTRODUCTION

As the moral necessity thesis claims, the source of our moral obligation to obey a set of legal rules, support political institutions (which should satisfy certain qualifications), and enter a rightful condition is an intrinsic requirement of people's morally living together. To use Kant's terms, our political obligation is morally necessary to ensure people's freedom and independence, since various rights securing this freedom would be impossible or merely provisional in the state of nature. A fundamental assumption of political obligation as a moral necessity is concisely formulated by Rawls, namely that people are "self-originating sources of valid claims."¹ This is also the root idea of Darwall's argument that moral obligation is a claim validated by the equal authority of different persons, what he calls second-personal authority.² The moral obligation to obey the law, among other moral obligations, is grounded in those valid claims addressed by people aiming to live peacefully and morally while the circumstances render it impossible to avoid interacting with each other. Thus, as noted before, if the moral necessity thesis is correct, political obligation should be seen as internal or intrinsic to people's moral lives, which is why no external moral principle is necessary for its justification.

Voluntary actions, such as promising or consenting to obey, would be similarly superfluous. To be sure, many social institutions other than political ones depend on voluntary actions to justifiably impose certain restrictions on people. For example, audience members should not bring their own food or drinks into a cinema. By purchasing a ticket, and thus entering a contract, a person has expressed her consent to be bound by the rules of the cinema. Without such a contract and the consent to comply with these rules, a person would not be under an obligation not to bring her own food and

¹ John Rawls, "Kantian Constructivism in Moral Theory," *The Journal of Philosophy*, Vol. 77, No. 9 (1980): 546.

² Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability*, Harvard University Press 2006, p. 21 and 121.

drinks. Sports are also typical examples. If you want to join others playing football, you are under an obligation to play with your feet and not touch the ball with your hands unless you are a goalkeeper. Hence, the obligations imposed by practices like football or institutions like cinemas would not bind a person unless he or she chooses to be bound by them. Unlike playing football or watching a movie in a cinema, leading a moral life by complying with one's moral obligations and not wronging others is an institution that a person does not have any space to choose or refuse to enter. Interactions with others are inevitable, and many of them call for a set of publicly enacted rules to maintain the moral relationship within a group of people. Roughly put, people's lives necessarily take place in a public domain in which political institutions are necessary for people to live morally and peacefully. Moreover, they have to be subject to a single set of rules guiding their interactions.

However, if the moral properties of political obligation do originate from people's valid claims to protect their freedom, this could immediately give rise to doubts about the ability of the moral necessity thesis to satisfy the particularity requirement. Political obligation, according to this thesis, is applicable universally because it is a moral obligation that people incur regardless of their nationality, citizenship, or membership in a given state or political community. Therefore, it might be thought that the thesis cannot explain why a U.S. citizen bears a political obligation merely to comply with the law of the United States, even if the legal system of another country is more just or more consistent with the virtues of democracy and constitutionalism. Or the thesis might be discredited for failing to explain why a U.S. citizen living in southern Texas, speaking Spanish and interacting more frequently with the Mexican community, is still under a moral obligation to obey the law of the United States rather than that of Mexico. A requirement of any viable theory of political obligation is that there is an often exclusive and particular relationship between a citizen and, on the one hand, her state, and, on the other hand, her fellow citizens. Therefore, the main concern of this chapter is how the moral necessity thesis satisfies the particularity requirement.

I will argue that while Kant justifies a moral obligation to enter a juridical state or a rightful condition, he implies that such a moral obligation

is valid for a certain group of people, not for the human race in general. According to Kant, an individual ought to leave the state of nature and incur a political obligation when he or she “cannot avoid living side by side with all others,” and it is with this definite range of people that a person “proceed[s] with *them* into a rightful condition” (6:307). It seems to me that with the expressions “living side by side” and proceeding to a rightful condition with “them,” Kant has in mind a special, not a general or universal duty or obligation. Thus, I will contend that if the moral necessity thesis is capable of generating political obligation, this specific moral obligation is *eo ipso* particularized or “range-limited.”³ A proximity principle entailed by the moral necessity thesis and also implicit in Kant’s argument satisfies the particularity requirement. However, I will endorse a somewhat different version or interpretation of the principle to deal with a problem for the traditional understanding, the so-called “physical proximity principle.” The alternative version of the proximity principle, which I would like to call the “juridical proximity principle,” is the justification for political obligation as a particularized moral necessity to be a moral obligation.

Before entering into the discussion of the proximity principle, it is necessary to clarify what Simmons actually means by “the particularity requirement”. Although both supporters and skeptics of political obligation generally accept the requirement, they unfortunately disagree about the exact role of the requirement in a theory of political obligation. Some take the requirement to call for an explanation of how political obligation is confined to the people with membership or citizenship in a *particular* political community.⁴ Others believe that a plausible theory of political obligation

³ Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy & Public Affairs*, Vol. 22, No. 1 (1993): 13.

⁴ For instance, Simmons argues that “[f]or political obligation has always been very intimately associated with the notion of citizenship, and has often been thought of as something like an obligation to be a “good citizen,” in some fairly minimal sense.” A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 5; Margaret Gilbert also ties the problem of political obligation to the idea of citizenship or membership, and she rephrases political obligation as what she names “the membership problem” which focuses on the following: “Does membership in a political society in and of itself involve obligations to uphold the relevant political

should be able to explain why the moral bonds exist merely among members because of the moral nature of a *particular* political community.⁵ Again others hold that such a requirement is a description of the fact that a citizen of state A is morally obligated to obey the law of this *particular* state, while that citizen is not morally bound by the political institutions of other states. I will address each of these variants, as well as their relation to the moral necessity thesis in the following chapter. As these different interpretations of the particularity requirement suggest, its exact formulation is related to the understanding of the concept of political obligation. For instance, if political obligation is particularized as a result of its entailment by a wider set of obligations generated by the acceptance of citizenship, the obligation would not necessarily be categorized as a moral obligation, since it is a subcategory of the obligation of citizenship. Therefore, in order to demonstrate how the proximity principle satisfies the particularity requirement, I will begin by discussing what this requirement actually is. The more significant task will then be to determine, firstly, whether the particularity requirement is a *valid* constraint on the justification of political obligation. By locating the origin of this requirement or the feature of particularity of political obligation, we will get a firm grip on what the nature of this requirement is and whether political obligation theories should be more profoundly liable to the particularity requirement than other topics of political and legal philosophy.

The argument in this chapter consists of two parts: the first part (Sections 2 and 3) concentrates on the formulation of the particularity requirement itself. Section 2 sets out the weak version of the particularity requirement as a minimal condition on a theory of political obligation. Section 3 explains why the strong version of the particularity requirement that Simmons and many others defend, if it is a valid constraint at all, is not a *sui generis* requirement that applies only, or is especially important to

institutions? Alternatively: are there plausible senses of the relevant terms such that membership in a political society obligates one to uphold its political institutions?" Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society*, Oxford University Press 2006 p. 18.

⁵ Ronald Dworkin, *Law's Empire*, Harvard University Press 1986, pp. 195-202.

political obligation theories. Furthermore, this section will take a step beyond the argument of the second section by denying the validity of the strong particularity requirement (SPR) for the justification of political obligation. The second part of the chapter (Section 4), in contrast, is the constructive stage, in which I will mainly demonstrate how the moral necessity thesis satisfies the weak particularity requirement (WPR) and why the two-stage account of the justification of political obligation (mentioned in the last chapter) is not a proper way to understand either the moral necessity thesis or Kant's justification of it.

2. TWO VERSIONS OF THE PARTICULARITY REQUIREMENT

Since both proponents and skeptics of political obligation agree that a special relationship obtains between states and their citizens, we may take this consensus as a starting point. Additionally, we may take this consensus as a criterion of the plausibility of any explanation of the particularity requirement:

Factual consensus: a person is morally obligated to obey the law and support the political institutions *only* of his or her state.

Here I use "state" in a very broad sense, which does not presume a citizen-state relationship, so that "his or her state" expresses what might be a contingent connection to his or her state of citizenship, state of residency, or perhaps only his or her travel destination.⁶ By this very broad usage of "state," I hope to include all interpretations of this consensus, because it appears to me arbitrary at this stage to limit the interpretation to the standpoint of citizenship. However, there is controversy over the moral weight (if any) and the role of the people-state connection in the justification of political obligation, which engenders the uncertainty about

⁶ For travelers, it seems inappropriate to refer to the destination state as *his or her* state, but as I will explain by means of the juridical proximity principle, there are at least two states with legitimate jurisdiction over a traveler or a long-term resident: her original state would claim *lex personalis* jurisdiction and the state of her destination or residence would claim *lex situs* jurisdiction. Under this circumstance, a person may bear a moral obligation to obey the law of both states.

the extent to which a theory of political obligation is required to account for such a connection or bond. For example, if the bond is an expression of nationalism, a theory of political obligation that primarily claims a moral obligation to obey the law might fail to spell out such a nationalist moral bond, which contains far more elements than a moral obligation of obedience. A positive obligation to protect the culture of a nation might be the dominant component of such a nationalist citizen-state bond. On the other hand, if political obligation is supposed to explicate the moral relationship of negative freedom, or contributing one's fair share to social cooperation, then the particular bonds to be represented might not carry any flavor of the relationship resembling brotherhood or family, as implied in the nationalist moral bonds. Therefore, the first task is to clarify the following: while Simmons contends that a theory of political obligation should contain particularity, what exactly is he referring to as "the particularity requirement"?

According to Simmons's official statement of the particularity requirement, the right sort of moral obligation for a theory of political obligation is comprised of those "moral requirements which bind an individual to one *particular* political community, set of political institutions, etc."⁷ This statement might be seen to capture the common-sense intuition that a Dutchman is morally and exclusively bound by the law of the Netherlands. Such a particular relationship, according to Simmons, assumes a tie between the particularity of political obligation to citizenship as the only correct explanation of the particularity requirement. Citizenship, which in most cases is an exclusive relationship between a citizen and her political community, cannot be understood as a universal bond between undefined parties. In other words, citizenship should be seen as a special connection between an identifiable citizen and one or more particular states. Consequently, it is claimed that a plausible theory of political obligation should be capable of pinpointing the particular state(s) to which a group of people owes obedience and of which they are citizens. From this perspective the particularity requirement might be appropriately termed the "citizenship

⁷ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 31.

requirement,” as Simmons believes what we really need in a political obligation theory is “a principle of political obligation which binds the citizen to one particular state above all others, namely that state in which he is a citizen.”⁸

However, an immediate doubt might be raised: Why citizenship? Is this the only explanation of the discerned fact that only the law of the Netherlands should morally bind a Dutch individual? Can we not simply answer that Dutch law is her law, or that Dutch territory is where she lives, or that it is together with her Dutch fellows that she constitutes a moral community in which she will be morally blameworthy if she does not discharge her moral obligation to obey the law? Someone who dismisses these answers as the explanation of the particular connection, as Simmons does, would have to justify the claim that citizenship is the only right interpretation of particularity. However, I will contend that it is not a correct interpretation, let alone the only correct one. Therefore, we need to examine the assumption of Simmons’s version of the particularity requirement.

Simmons’s principal reason for holding this view lies in the observation that people tend to “feel [...] that they are tied in a special way to their government, not just by ‘bonds of affection’, but by *moral* bonds.”⁹ As a result, the core task of a plausible political obligation theory is to account for the way such moral bonds come into being as well as the range of subjects of these moral bonds. The range of subjects cannot be explained, according to Simmons, without appeal to citizenship. In order to complete the justification for political obligation, any theory has to be able to determine the range of citizens, which essentially calls for a specification of (the qualification for) citizenship. But why should the particularity of political obligation be implied by citizenship? What explains this conceptual connection? If citizenship is merely people’s feeling of being bound by certain types of moral bonds to their government as Simmons states, a feeling is too weak an argument to establish an exclusive connection between

⁸ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, pp. 31-2.

⁹ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 3.

political obligation and citizenship. As a consequence, the way that the particularity of political obligation ties to citizenship remains vague. Simmons does mention the connection of the two concepts, as he claims that the problem of political obligation “has been *very intimately* associated with”¹⁰ or “relates [...] *closely* to”¹¹ the notion of citizenship. Political obligation correspondingly falls under the package of moral obligations generated by citizenship, or, in Simmons’s own words, it is an obligation to be a “good citizen in a fairly minimal sense,” which contains the obligation to obey the law and support the political institutions.¹² Therefore, Simmons’s formulation of particularity stands or falls with the interpretation of what a “very intimate” or “close” connection amounts to.

I believe that it should be relatively clear now that, despite Simmons’s qualifications the “intimate or close connection,” he is committed to nothing less than a conceptual connection: citizenship is a necessary condition for the particularity of political obligation. Particularity can be accommodated *solely* through the particular relationship of citizenship, and moreover political obligation has to be included in the package of obligations entailed by the duty to be a good citizen. Therefore, I would like to call Simmons’s particularity requirement the strong version, as it makes a relatively strong demand on how such a requirement connects with a specific notion of citizenship:

The Strong Particularity Requirement (SPR): the explanation of the particularity of political obligation, as noted in *Factual consensus*, *necessarily* depends on an account of the scope of citizenship of a particular state.

The implication of SPR is that theories of political obligation should specify criteria for calling someone a citizen, so as to enable us to determine the

¹⁰ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 5.

¹¹ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 155.

¹² See A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 5, p.155.

class of citizens. Simmons believes that only in this way can a theory of political obligation be complete and well-grounded. This version of the particularity requirement implies that we have to clearly specify questions such as how and when a group of people become Dutch citizens as a prerequisite of explaining their political obligation to obey the law of the Netherlands. We may say that the SPR is strong in two dimensions: first, it posits a conceptual connection between citizenship and political obligation, claiming that there is a fixed pattern to satisfy the particularity requirement, i.e. citizenship of a particular state; second, SPR is a requirement imposed on the *justification* of political obligation. It is strong in the second aspect because SPR rules out the possibility that the failure of satisfying the particularity requirement would only affect the application of political obligation, instead of denying the normative force of the obligation. Nevertheless, I believe that if the particularity requirement is generated by *Factual consensus*, we need not go as far as claiming that the only plausible interpretation of the consensus requires an account of citizenship or that such a requirement has any impact on the normative validity of a moral obligation. If the ability to accommodate factual consensus is condition for any viable interpretation of particularity, we should be open to all interpretations satisfying this condition. Such an open attitude means that unless Simmons is able to show that consensus can only be accounted for by citizenship, it is unreasonable to filter out all other explanations for a person's obligation to obey the law of her particular state. Additionally, the particularity requirement pertains only to the political feasibility of political obligation, and is irrelevant to its normative justification. This gives us the weak version of the particularity requirement:

The Weak Particularity Requirement (WPR): an account of political obligation should be able to accommodate and explain the particular connection noted in in *Factual consensus*, whatever its source may be.

WPR, in other words, constrains accounts of political obligation only to the extent of requiring them to clarify why a certain group of people is morally bound by the law of a particular state, without assuming that citizenship is the only plausible explanation of the particularity. Citizenship might be but

one of many potential answers to the particularity question; as I will argue in Section 4, I believe it is the particularity implied by the moral necessity thesis that makes political obligation a special obligation. However, before entering the constructive phase of the argument, we should examine why the SPR is the wrong particularity requirement.

3. WHY THE SPR SHOULD NOT CONSTRAIN POLITICAL OBLIGATION THEORIES

If the particularity requirement is a requirement for explaining factual consensus, it might seem astonishing that such a requirement is sometimes thought to be particularly related to political obligation. Suppose that there is a world government and a unified set of laws and political institutions ruling the whole world. Would there be a problem of particularity in that political arena? If all the people in this imagined polity would be morally bound to the same legal system by a justified general moral obligation toward political intuitions, particularity would be redundant to the justification of political obligation. A fortiori this would apply to SPR in virtue of its condition of citizenship. Thus we cannot simply ignore the possibility that the particularity requirement is a contingent and empirical requirement affecting the *application* of political obligation rather than its justification. In this section I investigate this possibility in two stages: I will first undermine the force of the particularity requirement by demonstrating that such a requirement has never been peculiar to political obligation; rather, it is ubiquitous in political philosophy generally. I will then argue that the particularity requirement, especially SPR, does not have any force in constraining the justification of political obligation at all. A theory of political obligation only needs to be able to satisfy WPR in order to accommodate the practice of politics. The necessary justificatory work has been taken care of by the moral necessity thesis.

3.1 A Not So Particular Requirement

Particularity is ubiquitous. There is a general moral obligation to rescue other people from peril, but if your best friend and a perfect stranger are drowning at the same time and you can only save one of them, your moral obligation is particularized as saving your friend. Therefore, we might

conclude that particularity exists in such a moral obligation and that the particularity is entailed by a special relationship.¹³ Moreover, I believe that particularity is a pervasive feature of political philosophy, where particularity is probably found in any topic as long as a polity is involved. For instance, Rawls notably confines the application of the two principles of justice to a political society marked by the territory of a state; hence, the purpose of the difference principle is to maximize the well-being of the worst off in a domestic political society.¹⁴ Thus the subject of the principles of justice is

¹³ Alasdair MacIntyre argues that those inherited expectations and obligations from the past of one's family, city, tribe, or nation constitute a given of life and its moral starting-point, which is also "part of what gives my life its moral *particularity*." See MacIntyre *After Virtue: A Study in Moral Theory*, University of Notre Dame Press 1981, p. 220. There is a debate on whether relationships per se can generate moral duties and responsibilities or if it is the fundamental values underlying those relationships that give rise to moral duties and responsibilities. The former view is called "associativism" or "non-reductionism," while the latter is called "reductionism." Samuel Scheffler supports anti-reductionism in arguing for the sufficiency of relationships to generate moral responsibilities. For instance, Scheffler believes that "to attach noninstrumental value to my relationship with a particular person just is, in part, to see that person as a source of special claims in virtue of the relationship between us. It is, in other words, to be disposed, in contexts which vary depending on the nature of the relationship, to see that person's needs, interests, and desires as, in themselves, providing me with presumptively decisive reasons for action, reasons that I would not have had in the absence of the relationship." See Samuel Scheffler, "Relationships and Responsibilities," *Philosophy & Public Affairs*, Vol. 26, No. 3 (1997): 196. Wellman, on the contrary, advocates reductionism, as duties generated by the relationship of "compatriots" are indeed generated by distributive duties. Thus, the difference "between associativism and reductionism is not necessarily in the duties posited; it is in terms of how these duties are grounded and described... reductionism strikes me as having a decided advantage over associativism in its ability to explain why agents *should* be motivated to perform their special duties." Christopher Heath Wellman, "Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun 'My?'" *Ethics*, Vol. 110, No. 3 (2000): 560.

¹⁴ As Rawls clearly states, "I shall be satisfied if it is possible to formulate a reasonable conception of justice for the basic structure of society conceived for the time being as a closed system isolated from other societies." John Rawls, *A Theory of Justice*, Harvard University Press 1971, p. 8.

limited to a particular group of citizens rather than people in general or globally. So when taxation is employed as a means to redistribute social resources to people in a given political community rather than people in general, the problem of particularity arises, as such a theory of redistributive justice has to explain why fellow members of this political community are entitled to the privilege of getting those resources. The particularity requirement is also valid to the Rawlsian distributive justice, because he needs to explain why the particular group of the worst-off of basic structure-A enjoys the priority in the redistribution of social resources from the better-off of the same basic structure, even if there exists worse-off people living under other basic structures. It seems that the boundary of a polity also affects the moral standing in distributive justice, and particularity comes to the surface.

Or we might take democratic authority as another example, according to which, roughly, the legitimacy of a state depends on the process of democracy.¹⁵ However, if legitimacy is grounded in democracy, another point remains to be clarified: the range of subjects participating in the democracy process. In other words, democracy might be a potentially plausible justification for legitimacy, but such a theory must be able to satisfy the requirement of particularity by determining who should vote or who should be identified as participants in order to explain why such a legitimate state is their particular state. To draw the boundary of who is qualified to vote in a state, while ruling out other people, is to establish a particular political community, and the question of why there exists the particularity regarding the qualification to vote is related to the problem of the particularity requirement. In mentioning the topics of distributive justice and democratic authority, I do not intend to claim that the Rawlsian justice principle is justified in granting privilege to the citizens of a domestic political society or that democratic authority theories are necessarily

¹⁵ I will discuss democratic authority theories in the next chapter. For instance, see Thomas Christiano, "The Authority of Democracy," *The Journal of Political Philosophy*, Vol. 12, No. 3 (2004): 266-90; David Estlund, *Democratic Authority: A Philosophical Framework*, Princeton University Press 2008; Daniel Viehoff, "Democratic Equality and Political Authority," *Philosophy & Public Affairs*, Vol. 42, No. 4 (2014): 337-75.

restrained by the question of the range of subject. Rather, my purpose is to demonstrate that the particularity requirement is not of particular significance or idiosyncratic to political obligation theories.¹⁶

We might approach the particularity of political theory from both the personal and the impersonal standpoint. The two standpoints are what Nagel views as the ethical basis for political theory. While the impersonal standpoint demands impartiality and equality, the personal standpoint stands for individual motives and requirements. The personal standpoint is believed to be obstructive to the impersonal standpoint's ideals; thus, conflicts are unavoidable, according to Nagel.¹⁷ As a consequence, the ideal of political theory is that there is a set of political institutions in which people lead a collective life that satisfies impartial requirements from the impersonal standpoint, while also acting with strong personal motives.¹⁸ An implication for political theory is that justification is necessarily twofold, or justification "must address itself to people twice: first as occupants of the impersonal standpoint and second as occupants of particular roles within an

¹⁶ I believe this is the reason why Simmons upgraded the particularity requirement to a boundary problem in a recent paper, where he argues this problem poses a special difficulty to the Kantian theories of legitimacy and political obligation "because the theories in that tradition attempt to solve the boundary problem without recourse to the kinds of historical considerations that are routinely employed to identify the legitimate moral boundaries of political authority and obligation." See A. John Simmons, "Democratic Authority and the Boundary Problem," *Ratio Juris*, Vol. 26 No. 3 (2013): 329.

¹⁷ Thomas Nagel, *Equality and Partiality*, Oxford University Press 1991, p. 4; Nagel argues: "Both the content of an objective view and its claims to completeness are inevitably affected by the attempt to combine it with the view from where we are. The reverse is also true; that is, the subjective standpoint and its claims are modified in the attempt to coexist with the objective...But I shall also point out ways in which the two standpoints cannot be satisfactorily integrated, and in these cases I believe the correct course is not to assign victory to either standpoint but to hold the opposition clearly in one's mind without suppressing either element. Apart from the chance that this kind of tension will generate something new, it is best to be aware of the ways in which life and thought are split, if that is how things are." See Thomas Nagel, *The View from Nowhere*, Oxford University Press 1986, p. 6.

¹⁸ Thomas Nagel, *Equality and Partiality*, Oxford University Press 1991, p. 18.

impersonally acceptable system.”¹⁹ Accordingly, once the Rawlsian justice principle and democratic legitimacy are justified from the impersonal standpoint, there remains the task to determine which particular group of the given basic structure-A have the priority and who have the right to vote in the democracy-A and who do not. Being a part of political theory, then, a theory of political obligation must first address why such a moral obligation is justified impartially, for instance, as morally necessary for collective life. Subsequently, it should address why an individual should be bound by such a moral obligation to other people with whom she particularly connects. This latter task constitutes the particularity aspect of political obligation.

It might be questioned whether the particularity mentioned in the Rawlsian distributive principles, Nagel’s general reformulations of particularity, and the particularity in political obligation refer to the same sort of particularity, and I think they are. All three types of particularity are brought about by the boundaries of states and the different political communities drawn by differing polities in political practice. Moreover, all three concern the same problem, i.e. that a contingent event of being born into a pre-existing state can affect a person’s normative situation, namely to which persons a person has rights and obligations and within which community he or she has a priority to make claims and complaints compared with those who are not from the same community. In the case of political obligation, this concerns to what such a moral obligation is owed and why the subjects of political obligation are typically constrained within the boundary of a state. Therefore, the problem of particularity is actually more of an issue in the field of moral philosophy, namely whether the boundary of a state can justifiably influence people’s situations. I believe this is also the exact reason that Simmons has upgraded the problem of particularity as peculiar to political obligation to the problem of boundary, which is more extensive, including problems of distributive justice, rights of immigration, and so forth.²⁰

¹⁹ Thomas Nagel, *Equality and Partiality*, Oxford University Press 1991, p. 30.

²⁰ See A. John Simmons, “Democratic Authority and the Boundary Problem,” *Ratio Juris*, Vol. 26 No. 3 (2013), 326–57.

By linking the particularity requirement to this feature of political theory, I hope I have made it clear that such a requirement has never been of particular pertinence or significance for the justification of political obligation. As long as a state or government or a polity is involved in topics of political theory, particularity will appear as a representation of jurisdiction or boundary in the political arena. The purpose of the following section, then, is to argue that the particularity of political obligation is misrepresented by SPR, and all that is required of the justification of political obligation is to accommodate factual consensus or WPR.

3.2 An Invalid Requirement

If we conceive political obligation as a moral obligation to obey *our* law and support *our* institutions, the requirement of particularity stems from the identification of a set of laws and institutions as *ours*. The SPR holds that the only way to realize the identification is through citizenship. This raises an obvious question: If a person is a long-term or permanent resident of a state without citizenship, does she bear a moral obligation to obey the law of this state? If the moral necessity thesis is plausible, the law of her state of residency should morally bind her to not only this state, but also to all its inhabitants (whether citizens or not). However, according to SPR, if a political obligation theory is to be justified, she is still morally bound only by the law of the state where she has citizenship, even though she has been living in another state for most of her life. On the contrary, if we understand the particularity requirement in terms of WPR, a theory of political obligation should only be constrained by the requirement to explain that she has a moral obligation to obey the law of *her* state. Therefore, the problem concentrates on the interpretation of which state is hers or how she relates to the law of a given state. At this stage, both her state of citizenship and her state of residency remain potentially plausible, as WPR does not enforce any specific pattern of the particular relationship between a person and her state or community as SPR does with the citizenship interpretation. As a constraint on the *justification* of political obligation, then, SPR may appear to be a void, because it might be the case that even if a theory cannot accommodate SPR, political obligation is still a valid obligation that compels people to obey the law of a legitimate state. The problem only concerns to

which state such an obligation is owed. For instance, according to the moral necessity thesis, obedience to the law is justified as a moral requirement because it is morally necessary, and whether or not we have defined a specific legal system for a person to obey cannot influence the normative force of this obligation. Rather, it is a problem of determining the applicable relationship between a legal system and this very person—which is why, so we may conceive the requirement as a requirement of feasibility. But SPR is unduly demanding as a requirement of feasibility. I would like to propose an analogy to illustrate the invalidity of SPR and to cast some light on the nature of the particularity requirement through examining different types of moral obligation.

Suppose Adam stole Bob’s wallet. Is Adam morally obligated to return the wallet to Bob? I believe the answer has to be “Yes, he is,” and this conclusion can be reached by this moral argument:

- P1. One is morally obligated to return property to its rightful owner;
- Q1. The wallet is not Adam’s property (as it was stolen from Bob);
- R1. Adam is morally obligated to return the wallet to Bob.

I will take for granted that P1 is a justified or *a priori* moral obligation, and I believe this is an uncontroversial assumption. Such a moral obligation is universally valid, and its validity does not depend on a specification of the person. The moral obligation stated in R1, on the other hand, is a particular obligation with a right-obligation relationship of which the terms are clear. Thus, through P1 to R1, a universal obligation has been specified as a moral obligation with particularity. We might analogously find an inference of the same (syllogistic) structure pertaining to the particularity of political obligation:

- P2. Everyone is morally obligated to obey the law and support the political institutions of her or his (reasonably just) country;
- Q2. Chuck’s country is the U.S.;
- R2. Chuck is morally obligated to obey the law and support the political institutions of the U.S.

P2 states the universal obligation under which Chuck's particular obligation is subsumed. What has particularized the universal obligation into the particular obligation in R2 is Q2, which states a matter of fact, similar to Adam's stealing of Bob's wallet, that serves to particularize a universal obligation to the relationship of Adam and Bob. If the end of a theory of political obligation is to justify the particular obligation of R2 rather than just P2, the normative justification is achieved *by way* of justifying P2. It is because P2 has normative force and Q2 is factual that P2's justificatory force spreads to R2. I think that as long as P2 is justified, we have a positive answer to the question "*Should* there be a political obligation?", if we remember the dispute of political obligation as a moral obligation in a prescriptive or factual sense in Chapter 1.

Nevertheless, according to the particularity requirement, this is not enough. This is because the real question for political obligation theories to answer is: "*Is* there a political obligation among the people of state A?" According to the moral necessity thesis, there should always be a moral obligation to obey the law among a group of people living together, so the problem is merely one of *applying* the thesis to the specific context of state A. Therefore, this question leads us to two further issues. First, does state A satisfy certain moral demands, e.g. justice, protection of freedom, rule of law and so forth? Second, why is *this* particular group of people politically obligated to state A? We will leave the first point aside by assuming that the state is nearly just in order to assure that the argument about political obligation is not trivial—since most (if not all) believe that people are not under a moral obligation toward a wicked regime. Thus, to give an answer to the target question "*Is* there a political obligation among the people of state A?" the remaining task is to apply the moral necessity thesis to the context of state A by explaining why the justified political obligation of a particular group of people is toward state A's laws and institutions. However, even if we fail to answer this question, the justified political obligation to be discharged by this group of people remains unaffected, just as the justification for a general moral obligation to return property to the owner would not be influenced by whether or not Adam has stolen Bob's wallet. Citizenship, which is emphasized by SPR, might be just one plausible way of explaining such a particular connection between the group of people and

state A. Moreover, the particularity requirement, especially SPR, should not be regarded as affecting the justification of political obligation. Rather, it is at best a feature of the *application* of political obligation in certain contexts, and this would be the whole content of a requirement as stated by WPR.

3.3 The Nature of the Particularity Requirement

In arguing for SPR, Simmons does not explain why we should regard it as a “limit of the investigation” or “standard of success.”²¹ All he provides to show the urgency of such a requirement is that we are only *interested* in those moral requirements binding an individual to a particular political community,²² which sounds vague and question-begging. First, it fails to articulate the indispensability of citizenship in this whole picture, as noted above. Moreover, whether or not something matches our interest should not be the standard of success for a theory of political obligation, even though we do take note of particularity when it comes to the application or the real politics of this moral obligation. Hence, I will articulate the nature of this particularity with the aim of achieving an accurate understanding of the requirement’s role and force in an account of political obligation.

If political obligation is conceived as a moral obligation *owed* to specific people, it is by nature a kind of “directed obligation.” According to Gilbert’s definition, a directed obligation is incurred by someone if and only if he or she owes another person an act of his or her own, which is why the obligation incurred is “an obligation to, or towards, that person, who has a correlative right against him to the act that is owed.”²³ By categorizing political obligation as a directed obligation, Gilbert means to distinguish it from obligations owed universally, such as the moral obligation not to kill or steal. The proposal of directed obligation is clearly inspired by the

²¹ These are the two functions that Simmons attributes to the particularity requirement as one of the limits and standards on any account of political obligation. A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 29, and pp. 54-5.

²² A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 31.

²³ Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society*, Oxford University Press 2006, p. 40.

distinction between “duty” and “obligation,” especially in Hart’s claim (as noted in Chapter 1), that the most significant features of obligation are the following:

(1) that obligations may be *voluntarily* incurred or created, (2) that they are *owed to* special persons (who have rights), (3) that they do not arise out of the character of the actions which are obligatory but out of the *relationship* of the parties.²⁴

It follows that political obligation as an “obligation” in Hart’s terms, or a “directed obligation” in Gilbert’s terms, implies particularity, since it involves a clear relationship of specific right-claimer and specific obligation-bearer.

²⁴ H. L. A. Hart, “Are There Any Natural Rights?” *The Philosophical Review*, Vol. 64, No. 2 (1955): 179 note7. Echoing Hart, Brandt and Rawls, for instance, also accept the distinction between “duty” and “obligation,” but the standard of the distinction might slightly differ between Hart on the one hand and his followers on the other. To take Rawls’s standard as an example: he believes an obligation is incurred only by voluntary acts, so that in contrast with obligation, “it is characteristic of natural duties that they apply to us without regard to our voluntary acts.” Hart does not require voluntariness as a necessary condition for obligation, as he contends that obligations *may be* voluntarily incurred. Gilbert points out, and I think correctly, that for Hart, voluntarism is not necessary. See Rawls 1971, pp. 114-5; Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society*, Oxford University Press 2006, pp. 37-8; Richard Brandt, “The Concepts of Obligation and Duty,” *Mind*, Vol. 73 (1964): 374-93. It is not my purpose to get involved in the debate concerning voluntarism and involuntarism, though I do believe some genuine obligations are incurred involuntarily. I agree with Williams that most of our obligations are not promissory and not voluntarily incurred, as he argues that “[i]n a case such as the duties of a job, the job may have been acquired voluntarily, but in general duties, and most obligations other than those of promises, are not acquired voluntarily.” Bernard Williams, *Ethics and the Limits of Philosophy*, Harvard University Press 1985, p. 7. With regard to political obligation in particular, I believe voluntariness does not come up as an issue as long as this obligation is justified by the moral necessity thesis. I believe it makes perfect sense when Nagel states that “[s]ubjection to a political system cannot be made voluntary: even if some people can leave, that is very difficult or impossible for most of them.” Thomas Nagel, *Equality and Partiality*, Oxford University Press 1991, p. 36.

However, what I want to emphasize is this point: if an obligation, according to Hart's third feature, arises out of the relationship of the parties, the relationship as such, being a matter of fact, would not impact the justification of the obligation. The capability of a relationship to generate certain sorts of moral obligation hinges on the nature of the relationship or the moral obligations that are intrinsic to this relationship. Hence, it is a normative question, or a question calling for normative justification, whether a given kind of relationship can give rise to moral obligations. An empirical relationship may particularize a general moral obligation or help identify a particular obligation; nevertheless, a failure of identification cannot undermine the *justification* of the obligation.

To see this point more clearly, suppose I promise to meet you at your office at 9 a.m., Tuesday. As a consequence, I am under an obligation to you, and a particular relationship between right-holder and obligation-bearer has been established as a result of my act. However, the normative force of a promise in general is presumed by this particular obligation, and the implied and justified premise is that "one has a moral obligation to abide by one's promise." Thus, the justification of the particular obligation is entailed by the presumption, while the relationship established or the act conducted merely triggers or "directs" the normative force of a promissory obligation.

The entailment of a particular obligation by its general justification is elucidated by the Darwall's distinction between two different types of moral obligation, viz. *bipolar* moral obligation and moral obligation *period*. As the adjective "bipolar" indicates, a bipolar moral obligation refers to a right-obligation relationship with two terms. It is identical with Hart's obligation and Gilbert's directed obligation. Moral obligations generated by promises are typical bipolar moral obligations, as a right holder (or an obligee) has the moral right to demand the fulfillment of the duties or claims in accordance with the promise. Otherwise, the right holder has the *individual authority* to blame the promisor/obligor. By contrast, moral obligation period is a moral obligation owed to an indefinite range of people or not to anyone in particular. It is, an obligation simply *to do* something.²⁵ We can perhaps

²⁵ Stephen Darwall, "Bipolar Obligation," in his *Morality, Authority, and Law: Essays in Second-Personal Ethics*, Oxford University Press 2013, p. 21.

make the distinction clearer with an example: civil law, such as contract law or tort law, mainly contains legal relationships analogous to bipolar moral right/obligation, as the right to demand certain actions is borne by a certain holder against specific bearers of the correlative obligations. Thus, an individual authority is presumed for the right-holder to make demands on the obligor, and it is the same for the right-holder in the bipolar moral obligation relation. Nonetheless, in criminal law, as in moral obligation *period*, the right to demand the fulfillment of certain duties, such as the duty not to steal or kill, is not borne by any specific individual but instead by people in general or the moral community as a whole. Hence, in order to warrant proper reactive attitudes, especially blame, toward violations of moral obligation period, a *representative authority* must be presupposed. Such a representative authority, unlike an individual authority permitting discretion, is non-discretionary, and something that “anyone has as a representative person or member of the moral community.”²⁶ Murder, for example, allows no space for discretion as to whether or not the murderer is blameworthy, whereas a breach of an agreement might allow a right-holder to judge if the obligor is blameworthy. Moreover, no individual authority can exist without a representative authority shared generally with all third parties of a moral community. Returning to the previous example, you hold a special individual authority against me because I promised to meet you on time, and you will be personally wronged if I fail to keep my promise. However, while I wrong you personally for failing to keep the *promise to you*, I am also guilty of a wrong period for failing to keep a promise, an act for which I can be blamed by any third party. Accordingly, a “wrong to someone” entails a “wrong period”; hence, a moral obligation to φ owed to a certain person cannot exist without a moral obligation to φ period. Thus, following Darwall’s conclusion, “the individual authority that is involved in bipolar obligations cannot exist without the representative authority that is involved in moral obligations period.”²⁷

²⁶ Stephen Darwall, “Bipolar Obligation,” in his *Morality, Authority, and Law: Essays in Second-Personal Ethics*, Oxford University Press 2013, p. 27.

²⁷ Stephen Darwall, “Bipolar Obligation,” in his *Morality, Authority, and Law: Essays in Second-Personal Ethics*, Oxford University Press 2013, p. 24.

Regarding political obligation, we might correspondingly assert that a (bipolar) moral obligation as owed to a certain group of people simply cannot exist without a moral obligation (period) to obey the law. Therefore, if political obligation is justified as an obligation period, the only remaining task is to explain why a group of fellow-citizens have the special standing to demand each other's compliance. Political obligation based on the moral necessity thesis is a bipolar moral obligation owed by everyone to everyone else in the same community, so the particularity requirement illustrates why being bound by the same set of laws puts each person in a particular position to demand or expect others' obedience. To use R. Jay Wallace's expression, particularity is represented by a "privileged basis for complaint."²⁸ Since the privileged basis may be caused by contingency, it merely identifies of the obligor-obligee relationship, rather than justifies a particular obligation. For example, my accidentally stepping on your foot gives you a personal authority to demand an apology from me, or that I move my foot, while any third parties lack such a personal authority. So in this example my stepping on your foot plays the particularizing role, and the particularity requirement should be understood as an explanation of the event that plays such a role in political obligation rather than as a requirement that affects the normative force of this moral obligation. Alternatively, we can say that WPR is the requirement that a plausible account should aim to satisfy, because a fact suffices to achieve that, and whether we can identify such a fact is not a concern for the validity of the obligation established. In contrast, SPR cannot accept a contingent event as the answer, since the answer that it requires has to be tied to citizenship and the failure to fulfill the requirement would invalidate the obligation. The over-demandingness, I hope, has been illustrated by how an obligation period can be turned into a bipolar obligation.

To summarize, the particularity requirement is, first, not peculiar to a theories of political obligation; rather, it is a feature of (applied) political theory in general. Second, it is not a requirement for the justification of political obligation; instead, it is better conceived as a requirement for the

²⁸ R. Jay Wallace, "Reasons, Relations, and Commands: Reflections on Darwall," *Ethics*, Vol. 118, No. 1 (2007): 29.

identification or the application of such a normative concept. Third, what it requires is an explanation of what grants fellow members a “privileged basis” for demanding compliance. Such an explanation will be the main focus of the next section.

4. THE PROXIMITY PRINCIPLE AND THE ONE-STAGE JUSTIFICATION

4.1 *The Proximity Principle*

In arguing for the moral necessity thesis, I claimed that the core of the thesis is to ensure that people are able to lead a moral life while they *cannot avoid living together with others*. We might say that this thesis has an inherently particularistic dimension in that a set of political institutions is morally necessary to those specifiable individuals whose lives are structured by those institutions. In other words, political obligation is owed to people with whom we cannot avoid living or interacting, and only those that can be identified as living together have a “privileged basis” for demanding compliance from other members of the group.

I follow Waldron and refer to a “living together” condition as the “proximity principle.”²⁹ This principle particularizes and ascertains the range of the subjects of political obligation, once the moral necessity thesis is justified. This condition is also explicit in Kant’s argument for the moral obligation to leave the state of nature for a rightful condition or state:

From private right in the state of nature there proceeds the postulate of public right: *when you cannot avoid living side by side with all others*, you ought to leave the state of nature and proceed with them into a rightful condition, that is, a condition of distributive justice. (6:307, italics added)³⁰

²⁹ Jeremy Waldron, “Redressing Historical Injustice,” *University of Toronto Law Journal*, Vol. 52 (2002): 137-8.

³⁰ According to Kant, though, the explanation of the particularity requirement would lie in the idea of consent, as he argues that the attributes of a citizen in a state include lawful freedom, which is “the attribute of obeying no other law than that to which he has given his consent” (6:314). However, I believe consent is not necessary to explain such a particular relationship, as long as we can demonstrate how the proximity

Elsewhere, when addressing the subject of a unified constitution, Kant adds a similar proviso to answer the question of “what is mine or thine”:

It can be said that establishing universal and lasting peace constitutes not merely a part of the doctrine of right but rather the entire final end of the doctrine of right within the limits of mere reason; for the condition of peace is alone that condition in which what is mine and what is yours for a multitude of human beings is secured under laws *living in proximity to one another*, hence those who are united under a constitution; but the rule for this constitution, as a norm for others, cannot be derived from the experience of those who have hitherto found it most to their advantage; it must, rather, be derived a priori by reason from the ideal of a rightful association of human beings under public laws as such. (6:355, italics added)

By the same token, where he argues that any concept of right has to rely upon the principle that each person must leave the state of nature and have “united itself with all others (*with which it cannot avoid interacting*) ... and so enter into a condition in which what is to be recognized as belonging to it is determined *by law* and is allotted to it by adequate *power*” (6:312, italics added). Therefore, for Kant proximity results in the moral necessity of a set of laws and also the political condition. This is the rough basis for believing that the moral necessity thesis is capable of accounting for the moral obligation of obedience and entering a political condition as owed to a particular group of people, and of generating political obligation as a bipolar obligation. Borrowing these terms, we might formulate the proximity principle in this rudimentary way:

The proximity principle: political obligation is owed to others with whom one lives side by side or cannot avoid interacting.

Constrained by such a principle, the moral obligation to comply with the law

principle suffices to explain it.

of a community is not a moral obligation period, but rather a bipolar obligation. It constitutes a relationship between two specific poles, namely the right-holder and obligation-bearer relationship. At the same time, any member of the community is such an obligor and obligee. Nevertheless, the proximity principle in this rough formulation inevitably invites two (probably connected) doubts: first, expressions such as “side by side” or “cannot avoid living with” are too vague to distinguish parties of the right-obligation relationship from people outside of the relationship; second, if the proximity principle implies that people are morally obligated to obey what *happens* to be the law of a state of a the law that *happens* to apply to them, such a principle, together with the moral necessity thesis, might be exposed to a dilemma that is believed to render natural duty theories implausible. What this means I shall explain in the next section. Furthermore, by considering how the natural duty account can deal with such a dilemma and what differentiates this account from the moral necessity thesis, I will articulate the role of the proximity principle in particularizing the general political obligation and identifying whom the law of a given state should bind.

4.2 Natural Duty and Proximity

It is well known that Rawls changed his mind about political obligation. In *A Theory of Justice*, he denies that a general political obligation can be generated by the principle of fairness, an account he once endorsed.³¹ As noted above,

³¹ Rawls systemizes the fairness approach of political obligation by linking it to his theory of justice as fairness, and only with regard to his two principles of justice can we define what constitutes a fair share. See John Rawls, *A Theory of Justice*, Harvard University Press 1971, pp. 111–3; John Rawls, “Legal Obligation and the Duty of Fair Play,” in his *Collected Papers*, edited by Samuel Freeman, Harvard University Press 1999, p. 123. Furthermore, the principle of fairness sheds light upon the moral source of political obligation as a special case of moral obligation. However, Rawls eventually conceded this point in the article “The Justification of Civil Disobedience” in 1969, where he argues that there is another reason—apart from the concern of fairness—for us to comply with just and efficient social institutions, which refers to “a natural duty not to oppose the establishment of just and efficient institutions (when they do not yet exist) and to uphold and comply with them (when they do exist).” John Rawls, “The Justification of Civil Disobedience” in his *Collected Papers*, edited by Samuel Freeman,

Rawls accepts the distinction between obligation, which can only be incurred by people's voluntary acts, and duty, which applies to us regardless of our voluntary acts. Since there is no clear evidence for voluntary acts incurring political obligation, Rawls asserts that there is no political obligation for citizens generally; instead, it is an obligation to officials as a result of their promises.³² However, Rawls does believe that there is a natural duty, applying to us as equal persons, to obey the law and support just institutions. It is not a trivial duty; rather, it is the most significant or fundamental natural duty from the standpoint of the theory of justice. Such a natural duty of justice requires us "to support and to comply with just institutions that *exist and apply to us*."³³ Although the ultimate morality of the two theories overlaps as both presuppose that people are equally free, I think it should be clear that the Rawlsian theory differs from the moral necessity thesis in that political obligation as a moral necessity is owed particularly to those who cannot avoid living together. Therefore, we might say that the political obligation generated by this thesis is a bipolar obligation, rather than an obligation period. Furthermore, the aim of the moral necessity thesis is to assure that people are able to comply with their moral obligations *by means of* political institutions, while for natural duty theories it is the moral properties *of* political institutions that generate such a duty. Or we may conceive political institutions as a means to discharge our moral obligations and have instrumental value according to the moral necessity thesis, whereas for natural duty theories, it is the intrinsic value of political institutions asks for people's respect and compliance.

In contrast to all other accounts of political obligation, the duty of

Harvard University Press 1999, p. 177. Finally, in *A Theory of Justice*, he officially abandoned the fairness part of the obligation of obedience, because only voluntary actions can give rise to obligations, and endorsed a natural-duty-based account of political obligation.

³² John Rawls, *A Theory of Justice*, Harvard University Press 1971, pp. 113-4.

³³ John Rawls, *A Theory of Justice*, Harvard University Press 1971, p. 115. The natural duty of justice has two parts, according to Rawls: "First, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves." See also John Rawls, *A Theory of Justice*, Harvard University Press 1971, pp. 333-4.

obedience or of supporting just political institutions for the natural-duty account is a universal duty binding all people as equals. It is precisely this difference—defining political obligation as universal—that is believed to be the Achilles’ heel of the account, because it fails to satisfy the particularity requirement. Opponents claim that since the scope of the natural duty is universal, such an account is incapable of explicating why people of a certain state are morally obligated to obey the law of their state only, instead of any other equally just states, as WPR has it. This criticism presents a dilemma for the natural duty theory. On the one hand, if it purports to deflect this criticism by turning the duty into an obligation, the source of political obligation would need to be replaced by an act that generates such an obligation. That is to say, if this account provides an explanation fulfilling WPR by saying that people consent to obey a particular set of laws, then it is their *consent*, instead of a natural duty, that has generated such a moral obligation; hence, it is no more an account of natural duty. On the other hand, the natural duty theory has to concede that such a duty, which is a duty to support all the just political institutions, is universal, irrespective of a person’s nationality, citizenship, and so forth. The concession of political obligation as a universal duty might make some sense in several circumstances. For instance, as travelers in other states, we are morally bound by the laws of those states assuming they are reasonably just; hence, it sounds reasonable to say that we do owe a moral duty to respect all just political institutions.³⁴ Yet such a concession cannot provide a practically robust account of political obligation, as people always do belong to a certain polity whose laws bind them even if they are abroad. However, although the dilemma appears threatening for the natural duty account, Rawls might have proposed (as it is not his intention to deal with the particularity requirement especially) a possible way out of it, as he does add a condition to identify the duty toward particular political institutions. This condition requires people to support just institutions that “exist and apply” to them.

Waldron advances a political obligation theory based on the idea of natural duty by elaborating on what “apply to” refers to. An in-depth

³⁴ See Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy & Public Affairs*, Vol. 22, No. 1 (1993): 8-11.

discussion of Waldron's entire interpretation of the Rawlsian natural duty account would be very relevant for an examination of the force of the proximity principle in accommodating WPR in the moral necessity thesis. This is because Rawls's circumstances of justice contain what Kant calls "the proximity to others."³⁵ However, one aspect that needs to be highlighted is that Rawls's or Waldron's strategy of accommodating the particularity requirement is slightly different from that of the moral necessity thesis, which arrives at this particularity by limiting the particular subject or bearer of the obligation. The natural duty of justice, according to Rawls and Waldron, can never be particularized in terms of a bipolar right-obligation relationship. There does not exist a definite connection between right-holders and obligation-bearers, as political obligation as natural duty binds on people universally. Rather, their justification intends to accommodate particularity by limiting the *content* of this duty, which means that the duty still applies to all people, but its particular character resides in the fact that its content refers to particular political *institutions*. Thus, to put the natural duty account in its complete form: people have a natural duty to support and comply with just political institutions that apply to them, or we may say it is a universal duty to obey particular institutions applying to them.

The moral necessity thesis concurs substantially with natural duty theories, in particular with respect to the mode of the justification. As mentioned previously, two modes of justification are common in theories of political obligation: generalizing a special obligation or particularizing a universal obligation. Both the moral necessity thesis and natural duty theories choose the latter mode. Thus not only can we be inspired by Waldron's way of dealing with particularity by applying a general moral principle to a particular political community, but we can also arrive at a proper understanding of the difference in how natural duty theories and the moral necessity thesis handle the particularity requirement. Waldron spells out Rawls's notion of "applying to" by an argument consisting of three steps, which may be called the steps of principle, institution, and realization.

First, *the principle step* separates insiders from outsiders with regard to a

³⁵ Jeremy Waldron, "Kant's Legal Positivism," *Harvard Law Review*, Vol. 109, No. 7 (1996): 1555.

political principle. A political principle, and most notably the principle of distributive justice, is what Waldron calls a “range-limited” principle.³⁶ For instance, if Adam decides to give each of his children equal resources for education, then the underlying principle of equal education is range-limited inasmuch as it applies only to Adam’s children and precludes all other people. In other words, only Adam’s children can be counted as insiders of this principle. Analogously, a principle of distributive justice is range-limited in the same sense. This is why such a political principle is capable of accounting for the particularity of the duty of justice by only including insiders. However, a range-limited principle is not sufficient to show how insiders connect with political institutions, and this point leads to the second step. *The institution step* states that a distributive principle of justice necessarily calls for a set of practical institutions for administration, and for the sake of the efficacy of the administering, those institutions—entailed by the justice principle—demand insiders’ acceptance and non-interference. In other words, people are firstly filtered by a range-limited principle as insiders and then connected to a set of institutions backed by insiders’ acceptance of a principle of upholding the operation of these institutions.³⁷ The last step, titled *the realization step*, is devised to assure or determine whether a particular organization is able to realize the range-limited principle or whether it is in accordance with such a principle. This step concerns the judgment of the legitimacy of a political organization, meaning that if such a political organization is qualified to serve the end of the moral principle in the first step, it will be regarded as legitimate. I will not unfold the argument for the last step as we have been proceeding on the assumption that a set of political institutions is legitimate or nearly just, and the third step primarily concerns the problem of legitimacy, which should be dealt with independently of political obligation (as we have seen in Chapter 2).

I believe that there is a remarkable consensus between the natural duty account and the moral necessity thesis in that each account endorses the

³⁶ Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy & Public Affairs*, Vol. 22, No. 1 (1993): 13.

³⁷ See Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy & Public Affairs*, Vol. 22, No. 1 (1993): 15-9.

correct method of justifying political obligation. Both of them directly target political obligation instead of legitimacy. Also, both accounts can accept different grounds for legitimacy and political obligation, as Waldron contends that legitimacy arises from democratic decisions, whereas political obligation is generated by our natural duty.³⁸ Put differently, since both accounts start with the belief that there is simply a duty or obligation to obey a *just* or *morally legitimate* state, the uncertainty is brought about by the considerations of whether a state is just or legitimate, thus meeting the standard of such a duty or obligation.

To conclude, the proximity to others constitutes one of the circumstances of justice, as “those with whom I come into conflict will in the first instance be my near neighbors.”³⁹ Therefore, proximity provides the fundamental rationale for natural duty theories to explain why conflict should be resolved locally or particularly with the guidance of political institutions.

4.3 Two Interpretations of the Proximity Principle

The strategy of interpreting “apply to” or “application” invites objections. A range-limited principle should be able to cast light on the reason or justification for limiting its range of application. After all, there is a crucial dissimilarity between being born into a social structure with a principle of distributive justice and into a family with a principle of equal education, because many doubt that we could ever make an analogy between political bonds and family. To use Waldron’s terms, the range of insiders of a family is rather obvious, while it is not clear of insiders of a polity, or even if there can be the distinction of insiders and outsiders of a polity. Simmons deploys two arguments against this strategy, both of which arise from a misunderstanding of the proximity principle.

Firstly, Simmons contends that an institution should not bind me simply because it applies to me, no matter how just such an institution is. For instance, suppose there is a philosopher’s association for the good of

³⁸ The separation thesis supported in Chapter 2 offers the conceptual possibility for distinctive justifications for these two enterprises.

³⁹ Jeremy Waldron, “Special Ties and Natural Duties,” *Philosophy & Public Affairs*, Vol. 22, No. 1 (1993): 15.

philosophers, the maintenance of which rests upon philosophers' paying their dues. Does this association have a right to demand payment from me only because I am a philosopher? Suppose further that all the philosophers gather together and live on a certain piece of "territory" where such an association functions like a political institution, enacting rules, adjudicating, and enforcing. If philosophers eventually regard the institute as having the right to rule, and every child born on the "territory" is considered a philosopher to whom its rules apply, are those children under a moral obligation to obey the institute because they apply to them?⁴⁰ Simmons believes that the answers to both questions should be negative. As a consequence, particularizing people's natural duty of justice by correlating it with particular political institutions is unfeasible, since we cannot maintain the view that a philosopher is morally obligated to obey the institute's rules simply because she is a philosopher. Simmons's example implies that if the linkage between a state and political institutions and a certain group of people cannot be entailed by the idea of "application" or the physical proximity of a person to a certain group of people, the proximity principle seems to be unqualified to accommodate WPR. If living in the proximity of a political community fails to establish any justification for the law of that state being binding on the person, such a principle cannot accommodate the fact that it is to this very state that this person owes her obedience.

A second challenge concerns the stability of political obligation engendered by the proximity principle. According to Simmons, if political obligation is owed particularly to people in the vicinity or a state ruling over the proximate group of people, does not this entail that the obligation would be automatically transferred to different states as we move among states? For instance, take the inhabitants in a city called Yanbian, located on the Chinese side of the border with North Korea. A large number of Chinese citizens in this city have Korean ethnicity, speak Korean, and do business with Korean citizens. Therefore, it is not far-fetched to suggest that those Chinese citizens live in proximity to Koreans rather than to most of their fellow Chinese citizens (as for instance people living in Hainan province, thousands of miles

⁴⁰ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, pp. 148-52.

away). This example obviously challenges the proximity principle. Yet this is clearly counter-intuitive, because only the law of China, the residents of which are not generally in their proximity, should morally bind them. In this manner Simmons would refute the proximity principle.⁴¹

Both challenges, however, are based on a misplaced interpretation of the proximity principle. In Kant's argument for the obligation to leave the state of nature, the "living side by side" setting is part of a normative justification for the necessity of a rightful condition or state. Therefore, proximity is more of an abstract principle rather than an algorithm, representing the particular subject as bound by the moral obligation in the moral necessity thesis. However, we do need a specific interpretation of the principle for the fulfillment of WPR or the determination of the scope of the political obligation in practice. Simmons believes that such a proximity principle should be interpreted as a *physical* proximity principle, which might be formulated as follows:

The physical proximity principle: political obligation is owed to a group of people or a government with which one is physically living side by side.

If we understand the proximity principle this way, it is unsurprising when Simmons argues that the reason for supporting a proximity principle is because "[l]iving in the domain of government A certainly makes it *easier* for me to support government A than to support any other just government."⁴² In addition, such an interpretation drives Simmons to ask detailed empirical questions pertaining to a quantitative standard for the proximity: "If I live ten miles away from you? Or fifty miles? On the other side of a river or mountain? If I once hiked past your property or was told of your existence by a

⁴¹ A. John Simmons, "Democratic Authority and the Boundary Problem," *Ratio Juris*, Vol. 26 No. 3 (2013): 335-6.

⁴² A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 33.

friend?”⁴³ At this point, we may be able to understand why the example of the Chinese citizens living on the border poses a special threat to Simmons’s understanding of the proximity principle, because those citizens might be more appropriately viewed as bound by the North Korean law in terms of physical proximity. It is then quite plausible to reject the idea that “mere physical proximity ‘particularizes’ the sorts of moral bonds we have been considering.”⁴⁴ However, even if we concede that physical proximity does not offer a solution to particularity, this is not tantamount to a rejection of the proximity principle. The expression of “living side by side” should be understood as a justificatory device within a thought experiment. To apply such an abstract principle, we need to note an essential difference between our contemporary politics and the scenario in the normative justification: whom we cannot avoid living side by side or interacting with does not depend on our own will. In other words, we cannot *decide* the range of our proximity, since we were born into states whose territories had already been settled, and whose constitutions had been valid for a long time. Thus, if a U.S. citizen wants to fence off a piece of land and possess it as her own near the U.S.-Mexico border while refuses to pay any sort of real-estate taxes, she does not harm a Mexican citizen living only a few miles away, but her disobedience does harm a resident who lives far off in Hawaii paying all the taxes. The consequence of our being born into different clusters of people and different states is that different jurisdictions apply to us. To interpret the proximity principle from the jurisdictional point of view, we might specify it as follows:

The juridical proximity principle: political obligation is owed to a group of

⁴³ A. John Simmons “The Duty to Obey and Our Natural Moral Duties,” in Christopher Wellman and A. John Simmons, *Is There a Duty to Obey the Law?* Cambridge University Press 2005, p. 173; And, in a recent paper, Simmons insists on the physical interpretation of the proximity principle, where he argues “. . . the claim that we are *special* threats to those with whom we are side by side [...] is a straightforwardly *factual* claim and must be evaluated as such. [...] Who is a special threat to whom depends on far more than simple physical proximity.” A. John Simmons, “Democratic Authority and the Boundary Problem,” *Ratio Juris*, Vol. 26 No. 3 (2013): 335.

⁴⁴ A. John Simmons, *Moral Principles and Political Obligations*, Princeton University Press 1979, p. 33.

people with whom one cannot avoid living side-by-side and interacting with due to legal relationships.

According to this version, the physical proximity is not the key element in deciding whom we are living with. Jurisdiction is. Hence, we concentrate on the juridical sense of living side-by-side and interaction. This juridical interpretation of proximity helps us to dismiss the second challenge about the instability of political obligation. If a citizen of the Netherlands is travelling in the U.S., her political obligation does not automatically transfer to being owed to the U.S. citizens in her physical proximity; rather, Dutch law is valid for her even if she is currently outside of the territory of the Netherlands. However, U.S. law simultaneously morally binds her, as we might say that the situation is marked by a personal jurisdiction and a territorial jurisdiction claimed by both states. Furthermore, the juridical proximity principle helps the moral necessity thesis to overcome the first challenge from Simmons. In coming into this world we are practically unable to avoid living together with others and would inevitably harm others if we are not committed to a set of political institutions. Therefore, political institutions should be regarded as *morally necessary*, or, as noted before, as internal to our moral life. A philosophical institute cannot have this force. In other words, disobeying the rules of the philosophical institute is not a moral wrong, while without subjection to a set of political institutions, one would necessarily fail to comply with one's moral obligations.

4.4 The Moral Necessity Thesis: A Restatement

Armed with the juridical proximity principle, we have a comprehensive understanding of the moral necessity thesis, especially concerning the particularity requirement in the application of political obligation. As we have argued, the ultimate basis of the moral necessity thesis is that we have a moral obligation to comply with our pre-existing obligations and do others no harm while we cannot avoid interacting with others. Hence whether a person is a U.S. citizen or a Canadian citizen has no effect on the nature of this moral obligation of obedience, since the identity of a person, or of the state as his or her state, does not make a moral difference for the person's end of maintaining a morally acceptable life by correctly discharging pre-existing

moral obligations. Therefore, we may say at this point that such a principle is agent-neutral, since no back-reference to the political identity of a person is necessary for the justification of this general moral obligation.

Discharging moral obligations requires a political condition, although the particular condition into which a person enters makes no moral difference as long as it is morally just or legitimate. Every political structure has a settled jurisdiction, determining whom one is going to legally interact with or live near to. As a consequence, being born in the U.S. or Canada makes a difference at this point—but it is a practical rather than a moral difference. The general moral obligation to obey a state or a legal system, has now been particularized as a moral obligation owed to a definite group of people. Moreover, it is an obligation that involves the performance of certain actions according to a particular system of laws. This particularization has been achieved by the juridical proximity principle, according to which people are born, as matter of contingent fact, into a particular jurisdiction. To conclude, political obligation is morally necessary for people to live together in morally responsible ways, and it is a particular political obligation owed to those who live in the same political structure according to the jurisdiction of a constitution.

One point that has come up in the previous arguments is that the political obligation generated by the moral necessity thesis is by nature a special or bipolar moral obligation that is morally necessary only for a given group of individuals. Hence, if to be a *justifiable* moral obligation, it should be a *particularized* moral obligation. Simmons argues that the Kantians have to justify political obligation by a two-stage argument: first, they need to justify why political institutions should be regarded as a moral necessity; then, they need to particularize the moral necessity to explain the particularity requirement. However, Simmons's characterization of the Kantian justification is wrong because he overlooks the particularity implicit in the moral necessity thesis: without proximity, political institutions would not be morally necessary in the first place. Accordingly, the justification of political obligation offered by the moral necessity thesis cannot be broken down into a source stage and a particularizing stage, as depicted by Simmons.

5. CONCLUSION

The argument of this chapter has both a destructive and a constructive aspect. In its destructive aspect, three specific conclusions may be identified: Firstly, the requirement of particularity is *not peculiar* to the theory of political obligation. Secondly, this requirement cannot have any substantial impact on the normative force and the justification of political obligation. I have distinguished two types of the particularity requirement and argued that if the aim of the requirement is to accommodate the factual consensus of people falling under different political frameworks, what should be satisfied is the *weak* version of the requirement. Moreover, abandoning the strong version leads to the third conclusion: there is no fixed pattern, such as citizenship in Simmons's framework, for accommodating particularity. As Darwall's account of the relation between bipolar obligation and obligation period makes clear, contingent events or moral luck have the capacity to particularize a general obligation. I believe that these three destructive conclusions sufficiently relativize the importance of the particularity requirement for the justification of political obligation. We do better in leaving open all possible explanations of the factual consensus, if citizenship is not the exclusively default choice.

In the constructive part, I endorse the proximity principle to show why political obligation is only morally necessary relative to certain circumstances. For Kant and Kantians, the circumstances include people's sharing a common moral life in their proximity in the state of nature. However, political obligation is embedded in real politics, which is a background that differs from that of the state of nature, so we should conceive people's proximity not as physical but as juridical. In reality and especially in the public sphere of our life, it is the law that decides whom we are living in proximity to, rather than physical distance.