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Displacement and gratitude: accounting for the political obligation of refugees

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Abstract

On what basis, and to what extent, are refugees obligated to obey the laws of their host countries? Consideration of the specific case of asylum-seekers generates, I think, two competing intuitions: (1) the refugee has a *prima facie* obligation to obey the laws of her host country and (2) none of the popularly canvassed substrates of political obligation—consent, tacit consent, fairness, or social role—is at all apt to explain the presence of this obligation. I contend that the unfashionable gratitude account of political obligation does the best job of accounting for the intuitions. As has been noticed by other commentators, obligations of gratitude are difficult to specify and subject to numerous cancelling conditions. I analyze these conditions in detail and conclude that if one accepts that gratitude is the basis of the political obligation of the refugee, then one must face up to just how frangible the obligation is. In particular, the obligation is conditional on the fair and generous treatment of refugees that is consistent with their dignity as human beings.

Keywords: *refugee; political obligation; gratitude; fairness; Simmons; Nozick; Rawls; Hart; Card*

In this paper, I address the question: on what basis, and to what extent, are refugees obligated to obey the laws of their host countries? Although much of my analysis is focused on issues specific to the obligations of refugees, the conclusions reached have ramifications for the problem of political obligation more generally. Consideration of the specific case of asylum-seekers generates, I think, two competing intuitions:

1. The refugee has a *prima facie* obligation to obey the laws of her host country.
2. None of popularly canvassed substrates of political obligation—consent, tacit consent, fairness, or social role—is at all apt to explain the presence of this obligation.

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Perhaps we should not be surprised, since at the time when these theories were originally conceived, incubated, and developed, there was nowhere near the level of displacement and mass migration that there is today. Nonetheless, in trying to account for the seeming political obligation of refugees, I will appeal to an ancient and somewhat unfashionable account: the argument from gratitude originating from Plato’s *Crito*. The nature and robustness of obligations of gratitude is a complex and contested issue. So we should not be surprised that the nature and robustness of the political obligations of refugees are similarly complex.

I will use the term ‘refugee’ as it is used in the 1951 United Nations *Convention Relating to the Status of Refugees*, which defines a refugee as a person who:

[O]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political option, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹

An ‘asylum seeker’ or ‘asylee’ is a person who is seeking to be recognized as a refugee. Refugees should be distinguished from both legal and illegal immigrants, whose situation I will not address in detail, except where I treat them as a contrast class. The right way to draw the distinction between the categories of ‘refugee’ and ‘immigrant’ is a matter of contestation, especially in cases where an individual’s motives for migration are mixed.² Moreover, even in cases which seem clear, individuals who fit the *Convention* definition of ‘refugee’ may be incorrectly categorized as ‘immigrant’ by their host countries; conversely, some people who in fact are not refugees as defined by the *Convention* are mistakenly recognized as refugees. For the purposes of this paper, I will use the term ‘refugee’ to refer to those individuals who fit the *Convention* definition, who are recognized by their host states as refugees, and who are treated by their host countries in the manner prescribed by the *Convention*.³ The set of people whose obligations I evaluate are both *de jure* and *de facto* refugees, who are recognized and treated as such.

Interestingly, in Article 2 of the *Convention*, under the heading ‘General obligations’, it is specified in no uncertain terms that refugees bear robust political obligations to their host countries:

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

I suspect that for many people it is a matter of common sense that refugees bear political obligations to their host countries. And I conjecture that it is for this reason that Article 2 of the *Convention* has not been the object of much legal or moral scrutiny. However, if we accept any of the most popular accounts of political obligation, this deliverance of common sense appears to have no defensible basis.

In this paper I will first discuss a non-contractualist, anti-voluntarist account of political obligation, centered around the obligations that a person acquires merely by conducting his everyday life in political society. Here I argue that the recently arrived refugee fails to occupy the relevant ‘social roles’ that might account for his political obligation. After that, I treat accounts issuing from the consent tradition, including Lockean tacit consent, and H.L.A. Hart’s famous ‘principle of fair play’. While I think that each of these theories has something instructive to say about the nature of political obligation, I argue that none of them adequately explains the prima facie obligation of the refugee to obey the laws of her host country. In the final section of the paper, I discuss how the account from gratitude does the best job of accounting for the intuitions. As has been noticed by other commentators, obligations of gratitude are difficult to specify and subject to numerous cancelling conditions. In what follows, I analyze these conditions in detail and conclude that if one accepts that gratitude is the basis of the political obligation of the refugee, then one must face up to just how frangible the obligation is. In particular, the obligation is conditional on the fair and generous treatment of refugees that is consistent with their dignity as human beings.

REFUGEES AND ‘ROLE OBLIGATIONS’

Hegel famously argued that local social practice, as opposed to the universal requirements of *Moralität*, can also be the source of real moral and political obligations. In *Elements of the Philosophy of Right* Hegel describes a dimension of moral life that is lived through institutions, which he calls *Sittlichkeit*. Anti-voluntarists, such as Michael Hardimon, argue that this dimension of moral life, consisting in our political, familial, and occupational roles, is often overlooked by contemporary political theorists, and that attending closely to this is necessary for any genuine understanding of political obligation.

Hardimon defines a ‘role obligation’ as ‘a moral requirement, which attaches to an institutional role, whose content is fixed by the function of the role, and whose normative force flows from the role’.⁴ Wary of reactionary, ‘my station and its duties’ connotations, Hardimon cautions that the moral guidance that social roles provide is neither ‘comprehensive’ nor is it ‘transparent’ (that is, role obligations do not exhaust all one’s moral obligations, and the content of role obligations is open to interpretation).⁵ Nevertheless, according to Hardimon, social roles and the (non-contractual, unchosen, yet reflectively acceptable) obligations they generate, lie at the center of our moral and political experience.

Importantly, the act of voluntary acceptance is not necessary for the generation of role obligations. Rather, it is necessary that the individual must *identify* with the role. Hardimon defines role identification in the following way:

[T]o *identify* with a role is:

- (i) to occupy the role;
- (ii) to recognize that one occupies the role;
- (iii) to conceive of oneself as someone for whom the norms of the role function as reasons.⁶

The third condition does the most philosophical work. Hardimon unpacks it as follows: 'The process of coming to identify with a social role is at once a process of coming to regard certain considerations as reasons and a process of coming to conceive of oneself of a person of a certain kind'.⁷ As one comes to conceive of oneself as 'daughter', 'judge', 'doctor', 'Englishwoman', one comes to regard oneself as the sort of person for whom the obligations of a 'daughter', 'judge', 'doctor', or 'Englishwoman' serve as reasons. This process of role identification, according to Hardimon, is distinct from the act of voluntary acceptance. He offers the example of a teacher who balks at grading papers: one could legitimately reproach the teacher by saying to him, 'but, look, that's your job' and one would not need to add, 'and you signed on for that job'.⁸ It is sufficient that the teacher *identifies* with his role.

In a similar vein, Ronald Dworkin describes political obligation as a kind of 'associative obligation' and sometimes as an 'obligation of role'.⁹ Communitarians, such as Alasdair MacIntyre, John Horton, and Charles Taylor, further emphasize the connection between obligation and identity. To violate one's political obligation is to, in some sense, diminish or deny one's identity.

To refute this thesis is far beyond the scope of this paper.¹⁰ Instead, I intend to show that, with respect to refugees, this style of accounting for political obligation is unsuitable. The question germane to my inquiry is whether a 'role obligations' or 'associative obligations' account can provide a promising foundation for explaining the political obligations of refugees to their host countries. Consideration of the social role and position of the refugee should make it apparent that we must answer this question in the negative.

First, refugees are often linguistically alienated from their 'fellow citizens' in the host countries they arrive in. For example, by the end of 1979, almost 250,000 Vietnamese refugees had to be resettled in the USA.¹¹ Only 2% of refugees reported that they could speak English 'very well' and only an additional 16% reported that they could speak English 'fairly well'. Amongst women and refugees over 50, these numbers were even lower.¹² Although this linguistic alienation among refugees is not universal, it is pervasive, especially in refugees coming from third-world nations to first-world nations.

Second, refugees are often alienated from the political institutions of their host countries. The laws that they are presumably subject to have been created by groups of people with vastly different histories. Furthermore, cultural values will often be widely divergent, and bonds of family and friendship will not be present with the refugee's new compatriots. In the case of 'quota refugees', the asylee plays no role in the decision regarding which country he will be sent to. Rather, the UNHCR decides which refugees will be taken from which camps, to be relocated in which countries.

The arbitrariness of this process from the point of view of the asylee, together with the concomitant linguistic, political, and cultural alienation upon arrival, make it very implausible that the identity of the refugee is at all tied up with membership in the polity of the host country. For at least a large subset of refugee cases, it would be wrong to say that the refugee identifies with the role of 'citizen of host country x', at

least not right away. In Hardimon's case of the indolent teacher, it makes sense to say, 'You're a teacher, and *that's why* you ought to mark the papers'. In the case of the Bosnian refugee to France, it makes little sense to say, 'You're a Frenchman, and that's why you ought to obey French law'.

One might argue that the situation of refugees-cum-citizens is different in America, which is by its nature a 'cultural melting pot'. I think that closer attention to the actual experiences of refugees in America will disabuse us of this notion. Consider the case of Somali refugees who, fleeing a brutal civil war, found themselves in Lewiston, Maine, a 96% white and predominantly Catholic town of 36,000.¹³ The refugees who arrived came from widely divergent spheres of Somali society. Some of them were ethnic Somalis, coming from one or other of the powerful Ogaden or Isaaq warring clans. Some of them were Somali-Bantus, descendants of slaves brought to southern Somalia from further down the East African Coast who speak a local language known as Af-Maay-Maay, and who are largely agrarian and pre-literate. As a result of recent history, the relationship between the two groups is fraught. With the onset of civil war, the Bantus had no weapons to defend themselves, and little opportunity to flee. As a result, many were raped, robbed, and murdered. In 2003, the United Nations admitted 12,000 Bantus as refugees. A good number of families ended up in Lewiston.

In a recent magazine interview, the white manager of Lewiston's public housing describes how she came to learn of the history and distinctiveness of the Somali Bantus:

They seemed behind at first. Their knowledge of indoor plumbing, thermostats – stuff like that – wasn't up to speed. I wasn't sure what was going on between them and the other Somalis. Then I had one of them hang back after a meeting with our translator, and when everybody was gone he said to me, "We were their slaves."¹⁴

Very few members of either Somali group speak English, and most live in largely segregated areas on the outskirts of town. As a result, there is a minimal amount of communication with the local Lewiston residents. Unsurprisingly, the local Mainers make no distinction between ethnic Somalis and Somali-Bantus. To my thinking, there can be no starker alienation. Imagine that not only are you unable to communicate with your new compatriots, but your new compatriots see you as the same as the people who, until very recently, have murdered and enslaved you.

Admittedly, the case of the Lewiston Somalis is extreme, and that of, say, Cuban refugees in Miami or Haitian refugees in Montréal will not be analogous. However, the case serves to illustrate the likelihood that many refugees will fail to identify with the social roles relevant for political obligation within the 5 years between becoming a legal permanent resident and a citizen.

The defender of a social roles account may argue that while the recently arrived and naturalized refugee does not identify himself as a 'Frenchman' or a 'New Zealander' or an 'American', in time, the linguistic, political, and cultural alienation he feels will diminish with socialization, and as he assimilates he will gradually

assume the social roles required for political obligation. And even if he himself never fully assimilates, his children will. The problem with this line of reasoning is that it still gets us nowhere in trying to explain the putative political obligation of the recently arrived refugee *now*. It seems absurd to explain an individual's obligations based on the likely future roles that he and his offspring will occupy. It is obviously illegitimate to demand of a college pre-med the obligations of a physician. Imagine demanding of a young woman who intends to become a mother one day, the obligations of a mother. Obligations issuing from predicted future roles, even if those predictions are accurate, are inappropriate and senseless.

Perhaps the associationist could make a more circumscribed claim. It may be argued that *sometimes* it is appropriate to demand of people that they comport themselves in *certain* ways because of their likely future roles, even though we do not demand of *each person* now *all* the obligations associated with their future roles. For instance, we might urge the aspiring doctor to spend time volunteering at a hospital so that she knows better what she is getting into. Or we might tell the aspiring soldier to steel himself for hardship and maintain a high level of physical fitness so that when he joins the army he will be more ready for battle. We may urge the likely future politician to refrain from smoking marijuana and to join a church so that he will have a chance of winning public office in the future. However, these cases are not analogous to that of socially and culturally alienated refugees who may one day become integrated and acculturated citizens. For one, each of these cases involve a single individual; in the case of the political refugee, the social enfranchisement and mutual understanding required for occupation of the relevant social roles may only occur over a generation. Secondly, in all of the above cases, the individual predicts of himself that he will occupy the relevant future role, and chooses to aspire to be an occupant of that social role.

EXPLICIT CONSENT, TACIT CONSENT, AND FAIRNESS

The major alternative to the Hegelian tradition of accounting for political obligation in terms of social situatedness is the Anglo-American tradition of contractualism and consent. According to the 'actual consent' theory, citizens have a duty to obey the laws of the state because they have freely and autonomously consented to do so. As an account of political obligation, the 'actual consent' theory has little currency.¹⁵ As far back as David Hume's 'Of the Original Contract', political philosophers have pointed out that this theory suffers from the problem of historical inaccuracy: no such contract is made between the individual and the state, nor is it likely that there was ever an 'original contract' between the originators of the state and the early ancestors of its citizens. Although many philosophers have echoed his words, Hume himself makes the point most forcefully:

I maintain that human affairs will never admit of this consent, seldom of the appearance of it; but that conquest or usurpation—that is, in plain terms, force—by dissolving the ancient governments, is the origin of almost all the new ones which were ever established in the world. And that in the few cases where consent may

seem to have taken place, it was commonly so irregular, so confined, or so much intermixed either with fraud or violence that it cannot have any great authority.¹⁶

Although Hume's words have not lost any of their influence on contemporary political theorists, I think that they have lost some of their relevance to the contemporary political situation. According to the *Yearbook on Immigration Statistics* published by the United States Department of Homeland Security, in 2012 alone, 757,434 individuals gained permanent resident status as immigrants to the United States. By and large, these immigrants freely chose to come to this country, had the opportunity to learn in detail the workings of its political institutions, and were able to make an informed decision regarding whether to become citizens, with all of the privileges and duties that this entails, whereupon they swore a solemn oath of allegiance to 'support and defend the Constitution and laws of the United States of America'. This large class of legal immigrants who become naturalized citizens of a country satisfies perfectly, I think, the presuppositions of the 'actual consent' theory of political obligation.

In the case of refugees the situation is more complex. In 2012, a total of 58,179 individuals were admitted to the United States as refugees. As described above, refugees often do not choose the countries that they end up in. Moreover, the promise of allegiance that they ultimately must make cannot truly be said to be freely given. Were they not to consent to obey the laws of their host countries, they would likely face deportation. Deportation would, in all probability, mean being subject to the same severe religious or political persecution that warranted their 'well-founded fear' in the first place. Generally, it is not possible for a refugee to move to a third country of her choosing. As a result, any expression of consent made by refugee must be regarded as suspect, given that it may well have been made under duress. Of course, any given refugee may be delighted to offer his consent to obey the laws of his host country. Sometimes when we are given just one real option, we are fully satisfied in 'choosing' it, and it would be wrong to say that we acted under duress. But this freely given and therefore morally significant consent simply cannot be assumed without knowledge of a particular refugee's psychology. In the absence of this knowledge, we cannot use actual consent as a way of justifying the obligation of refugees more generally.

The Lockean theory of tacit consent faces similar problems. In the *Second Treatise on Government*, Locke argued that 'every man, that hath any possession, or enjoyment, of any part of the dominions of any government, doth thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government'.¹⁷ Locke believed that residence in a country was a sign of tacit consent to the government, since residence signified a wide variety of 'consent-implicating enjoyments'. This seems also to be the view of Rousseau, who wrote, 'When the State is instituted, residence constitutes consent; to dwell within its territory is to submit to the Sovereign'.¹⁸ The general line of thinking is that to continuously live in a country is to *choose* to live there and accept the benefits of living

there, and to choose to live there with all the benefits this entails is to (tacitly) consent to the state's laws. Individuals who do not wish to make this choice should have the option of emigration.

Whether or not the option to emigrate renders a citizen's choice to stay in her own country genuinely consent-signifying is a matter of some complexity. For some individuals, emigration is a real possibility. The factors that determine how realistic this option is include an individual's wealth, his facility with learning new languages, the desires and wishes of his family, his prospects for employment, his prospects for gaining citizenship in a new country, the relative strength or weakness of his home country's currency, whether or not his home country has any agreeable colonies, etc. There exists, no doubt, a cosmopolitan elite for whom emigration without terrible burden is a real possibility. However, we cannot in good faith claim that such a choice exists for the refugee. The choice that the refugee faces—consent to full naturalization in her host country, or face harassment, torture, persecution, or death in her home country—surely cannot be interpreted to have moral significance. While it is sometimes possible to apply for refugee status in a new host country after being initially rejected, the risks of returning to one's home country are dire.

For any kind of consent (tacit or otherwise) to be valid and morally binding, it must be the case that the consequences of *dissent* are not extremely detrimental or dire. Because this condition is met in some cases, I do not think that the theory of tacit consent to political obligation is generally inapplicable. For example, when the wealthy publisher Conrad Black was prevented by Canadian law from receiving a British titular honor, he decided to emigrate to Britain, which allowed him to sit in the House of Lords and become Baron Black of Crossharbour. Black's decision to emigrate absolved him of his political obligation to Canada and its laws, which he perceived as burdensome and unjust. Had he decided to remain Canadian, there is a strong case that he would be bound by the laws of his native country. His was a real choice. It involved sacrifices, no doubt, but they were not life-shattering in the way that they would be for a typical refugee. For this reason, I do not think that the theory of tacit consent through residence can be successfully applied to most refugees.

Still, one might have the intuition that while the refugee has no real choice regarding whether to emigrate, this should not entitle him to being a 'free rider' in his host country. Some contemporary philosophers have held that the concept of 'fairness' can provide the elements missing from the classic consent account. The 'principle of fair play' was formulated by H. L. A. Hart in a seminal 1955 article entitled, 'Are There Any Natural Rights?' He summarized the principle as follows:

[W]hen a number of persons conduct any joint enterprise according to rules and they restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission.¹⁹

Hart goes on to express the principle explicitly in terms of a concept of fairness: 'in the case of mutual restrictions we are in fact saying that this claim to interfere with another's freedom is justified because it is fair'.²⁰ Rawls later introduces the language

of 'cooperative schemes' into the formulation of the fairness principle: 'We are not to gain from the cooperative labors of others without doing our fair share'.²¹ The principle of fairness is a descendent of the consent tradition. However, rather than demand the direct consent of the governed to the governing, the principle of fairness emphasizes the obligations that accrue to the individual from the acceptance of vital goods that are produced through cooperative action.

In *Anarchy, State, and Utopia*, Robert Nozick provides a number of imaginary cases where those (putatively) obligated by a cooperative scheme appear to be more like bystanders than like participants. In his famous 'book-thrusting' example, Nozick describes a scenario where one has a book thrust into one's house by a pushy consortium, and is then expected to pay for it.²² The injustice of this situation is manifest. The intuition Nozick draws on is that mere receipt of a good does not obligate one in the least if one does not consider oneself part of the cooperative scheme. He calls this the problem of outsiders. In defense of these aggrieved outsiders Nozick writes: 'One cannot, whatever one's purposes, just act so as to give people benefits and then demand (or seize) payment. Nor can a group of persons do this'.²³

I do not think that Nozick's problem of outsiders, at least on a conceptual level, is insuperable. Recall that Rawls' formulation of the principle (although not Hart's) required that one must *accept* the benefits of a scheme rather than merely *receive* them if one is to become obligated. If one has *accepted* the fruits of a cooperative scheme, and yet still refuses to play one's part in the scheme to produce the benefit, it is not a stretch to say that one is acting as a 'free rider', and has flouted one's obligations. The aggrieved bystanders in Nozick's examples merely *receive* benefits. The task, then, appears to be to distinguish who has taken a book and should pay for it, and who has had one thrust upon her, that is, who is an 'insider' and who is an 'outsider'.

Much of the debate regarding the principle of fairness as an account of political obligation focuses on the distinction between acceptance of benefits and mere receipt. In the case of ordinary citizens, this is very difficult to adjudicate, and probably varies with styles of regimes and types of citizens. In more democratic regimes, where citizens collectively determine the workings of the 'cooperative scheme' and the way in which the scheme assigns burdens, it is more apt to say that they accept its benefits, rather than just receive them. If people are consciously and collectively engaged in the provision of a good, it makes sense to say that they deliberately accept the good. If citizens have a say in which goods are produced, and how those goods are produced, it is wrong to characterize them as mere bystanders upon whom benefits are foisted. On the other hand, if the regime is totalitarian and the subjects have little say in what comes to them and how it is produced, it is a stretch to claim that they are participants in a cooperative scheme, and it is better to say that they have merely received the benefits. Whether or not someone is a bystander or a participator can also depend on the lifestyle of the individual. If the individual citizen is the sort of person who chooses to live in a city or suburb, sends his children to public schools, and rides the subway to work, there is a strong case to

be made that he has accepted the benefits of the cooperative scheme. If, on the other hand, the individual lives off of the electric grid in the countryside, homeschools his children, and pumps water from his own well, the case for obligations borne of fairness is much weaker.

For the large part, refugees are much closer to the bystander/outsider end of the spectrum than the participant/insider side. This is not to say that refugees do not receive invaluable benefits from their host countries. Often they owe their lives to their host countries; they would literally no longer exist were they not given refuge. Moreover, upon arrival in their host countries, refugees are often heavily reliant on social services such as health care, language training, counseling, and job training. However, refugees play no role in the design of the cooperative scheme, nor of its maintenance. As a result, the scheme may often be set up to realize values that they do not hold. Moreover, refugees may have little or no understanding of the workings and mechanisms of the scheme, and no say in how it might be changed. Recall that Rawls' version of the principle stated that obligations of fairness are borne by *participants* in a cooperative scheme who *accept* its benefits. While the principle may well be good (and I think it is), it is not properly applied to the case of refugees.

It should be noted that the class of 'participants' is not always coextensive with the class of individuals who 'accept' benefits; similarly, the class of 'bystanders' is not always coextensive with the class of individuals who merely 'receive' benefits. Earlier I argued that if you are a participant in a scheme, you are more likely to be someone who accepts its benefits rather than someone who merely receives them. This does not imply that if you accept the benefits of a scheme, you are a participant. Much of the dialectic on the principle of fairness centers on whether citizens are best construed as participants who accept, or bystanders who receive. I think that the position of the refugee fits neither of these categories very well. On the one hand, they cannot be considered participants, since they have not participated in the democratic processes that have brought about the origination, regulation, and maintenance of the cooperative schemes; and since they are cultural outsiders to the society, the cooperative schemes in existence may well be designed to realize values that they do not recognize. On the other hand, they cannot be considered mere receivers rather than acceptors, since they have made a deliberate attempt to *take* the benefits of refuge rather than just passively having the benefits accrue to them. Vis-à-vis their host countries, they are best described as non-participant deliberate takers. For these reasons, refugees are best understood as *bystanders* to a scheme from which they *accept* the benefits.

Consider a classic case: the cooperative residents of a small town band together and decide to build and maintain a well so that they will have a steady supply of water even if there is drought. One of the residents, a loner who lives on the outskirts of the town, decides not to take part in either the building or the upkeep of the well: he figures he will make out fine collecting rainwater. One year, the town has a particularly dry summer. The other townsfolk notice that this outsider is suffering dreadfully: his land is parched, his crops are dying, he and his family do not have enough to eat and drink. Out of compassion, the townsfolk decide to bring the

maverick resident and his family some buckets of water from the community well. Appreciative and grateful, the maverick resident *accepts* the water.

In a case like this, I think that it is clear that the maverick resident takes on certain obligations by accepting the water, even though he does not play a part in the cooperative scheme (since he had no role in its design, initiation, or maintenance). But as an *outsider* who *accepts* important benefits, the debt that he owes to the larger community is not one of *fairness*. This does not mean that this outsider is not somehow *obliged*. I submit that the debt he owes is best construed as a debt of gratitude. And it is on this model that I think the political obligation of the refugee is best understood.

GRATITUDE

The account of political obligation from gratitude has not been at all popular in recent years. Very few contemporary philosophers have defended the view that we have an obligation to obey the laws of the state out of gratitude for the benefits that the state confers upon us. I suspect that some of this unpopularity might stem from what A.D.M. Walker calls the argument's 'melancholy history'. The Western prototype of the argument from gratitude comes to us from Plato's *Crito* where the citizen's relationship to the state is described as analogous to that of a child to his parents:

Are you not grateful to those of us laws which were instituted for this end, for requiring your father to give you a cultural and physical education? [...] Then, since you have been born and brought up and educated, can you deny that you were our child and servant, both you and your ancestors? We have brought you into the world and reared you and educated you, and given you and all your fellow citizens a share in all the good things at our disposal.²⁴

The analogy between familial obligations and political obligations has proved highly problematic.²⁵ On the one hand, it is difficult to accept such a paternalistic relationship between citizen and state: unlike a child, an adult citizen is rational, autonomous, and experienced. Moreover, it is not at all clear that the relationship of authority between parent and child is generated by an obligation of *gratitude* in the first place.

Only under some rather restrictive parameters does acceptance of some benefit from a benefactor generate an obligation of requital. For example, if a person benefits me merely as a side-effect of pursuing his own interests, it would be odd to say that I owe him a debt of gratitude. The same is true if a benefit is bestowed on me against my will (e.g. if someone thrusts a book on me). John Simmons does a good job of describing the circumstances under which an obligation of gratitude is generated. He offers the following list of necessary conditions:

1. The benefactor must have made some special effort or sacrifice, or incurred some loss, in providing the benefit.
2. The provision of the benefit by the benefactor must be intentional and voluntary. It should be given out of goodwill rather than mere self-interest.
3. The benefit granted cannot be forced on the receiver against his will.

4. The receiver must want the benefit that is granted.
5. The receiver must not want the benefit not to be granted by *the benefactor*.²⁶

Simmons's conditions lead me to believe that although the account of political obligation from gratitude may not be applicable to most citizens, it does do a good job of accounting for the political obligation of the refugee. Consider condition (1). In accepting refugees, the citizens of a host country often take on the considerable burden of providing vital services such as food, shelter, family services, counseling, and language training, not to mention the cost of the bureaucracy required to review and evaluate applications for refugee status. Condition (2) is also met. Refugees are not welcomed to a host country inadvertently, as a side-effect, or by mistake. On some occasions, the acceptance of refugees can be seen as self-interested (to make a political statement on the international stage, for example), but this is not generally the case. Conditions (3) and (4) are satisfied by the fact that asylees actively seek refugee status, and rarely is it forced upon them. It is illustrative to compare the relationship between refugee and host with the relationship between an illegal immigrant and the state he lives in. The illegal immigrant is in continuous contravention of the law—no legal status has been given to him. Moreover, the 'benefits' that accrue to him are dubious: he does not enjoy legal protection, and in many cases, finds himself in exploitative work conditions.²⁷ This antagonistic relationship is largely absent in the case of refugees.

Conditions (1–4) are met handily; Condition (5) may yet seem to pose a problem. Simmons offers the following example of a violation of Condition (5): '[W]hile I may want my lawn to be mowed while I'm out of town, I may not want my neighbor to do it; I may prefer not to be indebted to him, for a variety of reasons. In fact, I may want my lawn to be mowed without wanting *anyone* to mow it'.²⁸ We may try to construct an analogous obligation-canceling consideration with a refugee and his host state: while the refugee desperately wants the benefits of life and liberty, she did not want those benefits to be provided by *United States*: she would have preferred to be indebted to Canada. I think that this case, and Simmons' case, are importantly disanalogous. If someone mows Simmons' lawn whom Simmons does not want to mow it, Simmons does not owe a debt of gratitude to that person. However, if there is only one person who will mow Simmons' lawn while he is away, and Simmons prefers his lawn to be mowed, and Simmons prefers his lawn to mowed by that person rather than by no one at all, then Simmons owes that person a debt of gratitude if he mows his lawn. This is the relevant analogy to the case of a refugee and her host country. In cases where the asylee only has one choice about where to settle, and she strongly prefers to be granted asylum somewhere rather than nowhere, she owes a debt of gratitude to the country that offers her asylum, even if she would prefer to settle in another country.²⁹

There is one final canceling condition I have not yet discussed that I would like to diffuse preemptively. One might argue along the lines that we bear no obligation of gratitude when our benefactor has a *duty* to provision the benefit that he does. The firefighter's stoic insistence—'Just doing my duty, ma'am'—might be construed as an

expression of this general principle. If one believes that states have a duty to accept those individuals who have been persecuted in their home countries because of their race, religion, ethnicity, or beliefs, then one might think that no obligation of requital is generated in return. I think that this is a mistake. Consider the case of the flight attendant who has a professional duty to stay on the plane until all of the passengers have slid down the escape slide. Surely the passengers should be grateful to her for so bravely fulfilling her duty in such frightening circumstances. Obligations of gratitude can be generated even when one's benefactor has acted out of duty, especially when the benefit is great and sacrifice is substantial.³⁰

But even if one is convinced that the necessary conditions for the generation of an obligation of gratitude have been met, and that none of the canceling conditions obtain, there is still a difficult question to answer: given that refugees have an obligation of gratitude to their host countries, what precisely is the content of that obligation? Even if we agree that refugees owe a debt of gratitude to their host countries, this does not imply that this obligation can only be fulfilled by obeying the laws.

Many of obligations of gratitude are requited with little more than a thank-you note or a box of chocolates. Why does the refugee's obligation consist in obeying the laws of her host country? Simmons put the objection this way:

We are not normally bound to any *particular* conduct, except in the case of reimbursing losses incurred by others in the process of benefiting us. On the other hand, if political obligation is to include supporting the government and obeying the law, the obligation would require a very *specific* performance, namely obedience (and this performance could not really be thought of as reimbursement of losses [. . .]) It seems, then, that political obligation could *not* be an obligation of gratitude; for while supporting the government and obeying the law might be one way of discharging such an obligation of gratitude, it would not be the only way.³¹

Although I am sympathetic to this line of argument, I think that its force is mitigated by three important considerations. The first thing to keep in mind is that, in the case of the refugee, the *magnitude* of the benefit bestowed is enormous: the life and liberty of the refugee has been safeguarded because of a deliberate, voluntary, and generous act on the part of the host state. A merely symbolic act does not seem adequate to discharge what gratitude is owed. The significance of the assistance offered necessitates a form of requital that exceeds a trivial expression of thankfulness.

Secondly, we must keep in mind the host polity's most salient need, namely, compliance with its laws. Without compliance from its citizens, a state will likely not survive, let alone flourish. Nannerl Henry puts the point succinctly: 'The reason obedience is the coin in which this particular debt must be paid is that political services cannot be provided unless subjects obey their governments'.³² For a refugee to flout the laws of his host state will often mean that he acts deliberately contrary to its interests. One might be tempted to reply that *only a small number* flouting the law will not result in any serious harm to the state. But this, I think, is missing the point.

If one accepts that part of having an attitude of gratitude is *goodwill* toward one's benefactor, it should be clear that one should not act so as to *undermine* one's benefactor, even if the harm is not grave. One may still argue that non-compliance with just *some* laws by a small minority will not result in any perceptible harm to the state, and since it will not result in perceptible harm, it is not an expression of lack of goodwill. However, I think a good case can be made for the position that when individual acts have tiny or imperceptible effects on their own, and great effects if performed on a large scale, we should look at the consequences of what we collectively do when assessing whether or not they express good or ill will.³³ Even very minor damage to one's benefactor is not consistent with an attitude of gratitude. What is at issue is whether one's part, however small, is implicated in sustaining or in undermining the state.

Still, one might worry that gratitude appears to be a tyrannical moral norm when it requires the beneficiary to obey the commands of the benefactor.³⁴ This is a serious concern, but I think it can be answered if one keeps in mind the following considerations.

First, it must be borne in mind that political obligation grounded in gratitude can be outweighed or cancelled outright by other moral considerations. For example, a refugee may not be bound by obligations of gratitude to an unjust or tyrannical host. Card notes that 'historically, the powerful and privileged have imposed *their* guardianship upon the powerless and have felt the latter should be grateful for their "care".'³⁵ Cases such as these fall under the category of 'misplaced gratitude'. Indeed, there are some cases where a refugee may not owe a debt of gratitude to her host state at all. If a refugee believes that her host country is responsible for the conditions in her home country that forced him to flee in the first place, gratitude would be misplaced. This may be true in the case of Iraqi Christians who sought refuge in the United States after the protection afforded to them during the Ba'athist regime disappeared with the American toppling of Saddam Hussein. The exact nature and scope of these outweighing and cancelling considerations are beyond the scope of this paper.³⁶ But this much is clear: if one accepts that gratitude is the basis of the political obligation of the refugee, then one must face up to just how frangible the obligation is. In particular, the obligation is conditional on the fair and generous treatment of refugees consistent with their dignity as human beings.³⁷

I think that the worry that gratitude is 'tyrannical' fades when we take note of the fact that it is widespread conformity with the law that facilitates all citizens' just treatment of one another. This putatively tyrannical moral norm seems less tyrannical when one keeps in mind that adherence to the norm is part of cultivating a polity of non-tyranny. It is true that gratitude does not usually require people to facilitate their benefactor's activities, which may lead one to worry that my account collapses into a Rawlsian natural duty account for obedience to the law. But gratitude *does* require that one refrain from acting so as to undermine one's benefactor's interests. It is the disregard for the state's needs that warrants the charge of *ingratitude*. Indeed, the state's ability to help other people who are in the same imperiled situation that the refugee himself once was in is diminished when present

refugees act as free-riders. Given that the refugee starts off as an ‘outsider’ to the polity, the reason that she bears an obligation to *that particular* state (as opposed to other just states around the globe) is that it is *that state* that had bestowed him with such a weighty benefit.

Finally, I concur with Card that it is a mistake to think about ‘debts’ of gratitude as literal debts. Doing so encourages us to construe the person who owes a ‘debt of gratitude’ as one who is in a position that is inferior to that of a creditor. What is more, it may see as if the beneficiary of gratitude is *forever* indebted, an unappealing and even shameful position. Contrariwise, Card maintains that ‘owing gratitude is more like having accepted a deposit, than like having taken out a loan. [. . .] Deposits are a source of pride. As a beneficiary, I can regard myself as the “trustee” of another’s good will or concern’.³⁸ I think that this ‘trustee’ model of gratitude fits well with a conception of the refugee as a responsible and answerable political actor, rather than exclusively as a victim who is passive. The way to discharge the obligation of gratitude is for the trustee to avoid behavior that would, to borrow a formulation from Hobbes, cause his benefactor to reasonably regret his beneficence.³⁹ I think that violation of and disregard for the laws of the state, laws that make possible other citizens’ just treatment of one another, would occasion such reasonable regret.

If one keeps in mind the magnitude of benefit, the needs of the benefactor, and the fact that the obligations in question can be overridden by other moral considerations, I think that much of the initial resistance to the gratitude account is diminished. Political theorists who have objected to the gratitude account have objected to it as a *general* account of political obligation. My analysis has been limited to a circumscribed subset of individuals: refugees who have been recognized by their host states as such, and treated in accordance with the conventions of the United Nations.

The nature of the political obligations of refugees is a topic that is not much discussed. I am not sure why this is so. Perhaps it is because refugees are perceived primarily as *victims* (of oppressive regimes, religious persecution, etc.), which they no doubt are. The most salient and morally urgent obligations are obligations to *them*. But this aspect does not exhaust their identity. Refugees are also political *actors*, and as such, it is not only necessary to determine what is owed to them (asylum, support) but also what responsibilities they bear to the state that affords them the treatment they deserve. To attribute to them a debt of gratitude is to acknowledge this aspect of their identity.

It may appear that my project is too ambitious, that one should not try to refute such a broad swath of political theory and tradition in so few words. However, it has not been my aim to argue that associationist, consent, and fairness accounts are internally incoherent or generally defective, or that they do not account for *some* of our intuitions about political obligation for *some* subsets of citizens. Rather, I have tried to demonstrate that these theories simply are not properly applied to the case of refugees, since refugees do not fit the description of the sorts of citizens whose obligations these theories purport to explain. I submit that the account from gratitude, on the other hand, is better suited to the task. It is my suspicion that *no*

general account of political obligation will ever be entirely satisfactory: the terrain is messy and the solution to the puzzle is bound to be piecemeal at best.

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NOTES

1. *Convention Relation to the Status of Refugees* Article 1:A <http://www.unhcr.org/3b66c2aa10.html> Accessed 3/5/2014
2. Roger Zetter, "More Labels, Fewer Refugees: Remaking the Refugee Label in the Era of Globalization," *Journal of Refugee Studies* Vol. 20, No. 2 (2007).
3. This is merely to avoid complication; I do not intend to make any commentary on who the "real" refugees are, or whether the *Convention* definition is adequate.
4. Michael O. Hardimon, "Role Obligations," *Journal of Philosophy* Vol. 91, No. 7 (1994): 334.
5. *Ibid.*, 338.
6. *Ibid.*, 358.
7. *Ibid.*
8. *Ibid.*, 360.
9. Ronald Dworkin, *Law's Empire* (Cambridge: Belknap Press, 1986), 206.
10. But for a particularly cogent critique, see Simmons (1996).
11. Bruce B. Dunning, "Vietnamese in America: The Adaptation of the 1975–1979 Arrivals," in *Refugees as Immigrants: Cambodians, Laotians, and Vietnamese in America*, ed. David Haines (Totowa: Rowman & Littlefield, 1989), 55.
12. *Ibid.*, 62.
13. William Finnegan, "New in Town," *New Yorker*, December 11, 2006, 48.
14. *Ibid.*, 58.
15. A notable exception is Gilbert (2006), who argues that coercive agreements can sometime be binding. Margaret Gilbert, *A Theory of Political Obligation* (Oxford: Oxford University Press, 2008).
16. David Hume, "Of the Original Contract," in *Political Essays/David Hume* ed. Knud Haakonssen (Cambridge: Cambridge University Press, 1994), 191.
17. Sec. 119.
18. *Social Contract* IV.ii.
19. H.L.A. Hart, "Are There Any Natural Rights?" *Philosophical Review* 64 (1955): 185.
20. *Ibid.*, 190–191.
21. John Rawls, *Theory of Justice* (Cambridge: Harvard University Press, 1971), 112.
22. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1972), 94–95.
23. *Ibid.*, 95.
24. 50d–51d.
25. Richard Kraut offers a limited defense of the analogy in *Socrates in the State* (Princeton: Princeton University Press, 1984) pp. 143–148.
26. A. John Simmons, *Moral Principles and Political Obligations* (Princeton: Princeton University Press, 1979), 170–179.
27. An anonymous reviewer points out that the illegal immigrant may enjoy some legal protections simply because the state enforces laws against killing, stealing, etc. But the fact

- remains that access to legal redress is significantly limited if the illegal immigrant fears deportation.
28. Simmons, *Moral Principles and Political Obligations*, 178.
 29. An anonymous reviewer points out that one can avoid Simmons's condition (5) altogether by following McConnell (1993) in changing condition (4) from "the beneficiary *wants* the benefit" to the "the beneficiary *accepts* the benefit". Terrence McConnell *Gratitude* (Philadelphia: Temple University Press, 1993).
 30. This point has been made by several others, including Simmons (1979) pp 179–180.
 31. Simmons, *Moral Principles and Political Obligations*, 185.
 32. Nannerl O. Henry, "Political Obligation and Collective Goods," in *Nomos XII: Political and Legal Obligation*, ed. J. Roland Pennock et al. (New York: Atherton Press, 1970), 186.
 33. This is a thorny and complicated issue that cannot be adequately treated within the scope of this essay. However, for an account that I find congenial, see Derek Parfit, *Reasons and Persons* chapter 3. Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), pp 75–82.
 34. This objection was raised by an anonymous referee from this journal.
 35. Claudia Card, "Gratitude and Obligation," *American Philosophical Quarterly* 25:2 (1988): 124.
 36. It should be noted that all other accounts of political obligation bear this same burden.
 37. Here I am in agreement with Richard Kraut (1984) and Dudley Knowles "Gratitude and Good Government" *Res Publica* 8:1(2002) pp 1–20.
 38. Card, "Gratitude and Obligation," 121.
 39. Thomas Hobbes, *De Cive or The Citizen*, ed. S. P. Lamprecht (New York: Appleton-Century Crofts, 1949), 47.