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## Obligation

Since Plato wrote of political obligation in his dialogue *Crito*, obligation in general has been of ongoing interest to philosophers. In that dialogue, Socrates argues that he was under an obligation to obey the laws of Athens and comply with a sentence of death. During the course of the argument, he raises and offers solutions to many of the central issues about obligation that philosophers still puzzle over. For instance, how can obligations have the grip on us that they do—in some cases, so that we are willing to die rather than not fulfill them? What is the nature and justification of moral and legal obligations? Do we have an obligation to obey the state, and if so, why?

The range of issues and positions relating to obligation is vast, given that there are few areas of moral and political philosophy in which obligation does not play a role. In what follows, four topics that have been of particular interest to contemporary philosophers are discussed: (1) the analysis and justification of obligations, (2) legal and moral obligations, (3) obligations, roles, and identities, and (4) agent- relative obligations.

### The Analysis and Justification of Obligation

Obligation is normative, concerned with how things should be (not necessarily with how they are). In particular, it is deontically normative—concerned with duty, or what is permissible, forbidden, and the like—as opposed to axiologically normative—concerned with what is good, bad, better, or worse. A given deontic normative perspective classifies actions, laws, institutions, or whatever as permissible (acceptable) or impermissible (unacceptable, wrong, forbidden). The classifications are inter-definable. For instance, an option is permissible when it is not impermissible, obligatory when permissible and every alternative option is impermissible.

Obligation is a relation with as many as three places: the person or entity who *has* an

obligation (call this the *agent*), what that agent is obligated to do (the *performance*), and the person or entity to whom the agent owes the performance (the *object*). Because the object of an obligation is owed the performance, that person or entity has a *right* to it, and when an obligation has an object, obligations and rights are reciprocal: If someone has a right to your  $\phi$ ing, then you have an obligation to  $\phi$ ; and if you have an obligation to someone to  $\phi$ , then that someone has a right to your  $\phi$ ing. Philosophers differ over whether all or just some obligations have objects, and so whether all or just some obligations come with reciprocal rights. For instance, some hold that a person is morally obligated to help others, but this obligation does not give anyone a right to be helped. Often, obligations that do not generate reciprocal rights for their objects are called *imperfect* obligations, while those that do generate reciprocal rights are called *perfect* obligations.

Some obligations are *agent-relative* (or *agent-centered*) and others are *agent-neutral*. Agent-relative obligations are those whose performance contains within its scope an essential reference back to the agent and to the agent carrying out that performance. (McNaughton and Rawling, 1991) Hence, such obligations state that the agent is obligated himself to perform some action. An agent-neutral obligation, by contrast, states only that the agent ought to ensure the performance of the action, whether by himself or someone else. For instance, my obligation to help a stranger is really just the obligation that I ensure the stranger is helped—whether by me or by someone nearby does not matter. By contrast, my obligation to go to my son's birthday party is an obligation that *I* go to his party. I do not discharge that obligation by sending someone else. Likewise, if I promise that *I* will baby-sit your children, the obligation I have undertaken is that *I* baby-sit, not that a baby-sitter of some sort is provided. To the degree that obligations and rights are reciprocal, this distinction in agent-relative and agent-neutral obligations brings with it a distinction in agent-relative and agent-neutral rights. For instance, you have an agent-relative right that I baby-sit if I have promised as much.

What is obligatory is what one *must* do. A citizen has an obligation to obey the law, and so *must* obey the law; it is obligatory for a Boy Scout to keep himself physically strong, thus he *must* do so; parents are under an obligation and so *must* care for their children. Because of this, deontic classifications have been treated as modal notions—as what it is normatively *necessary*, *possible*, or *impossible* to do. Moreover, these modalities are often characterized much like causation and other kinds of necessity, as relations grounded in the governance of laws. Heat must boil water because there is a natural law governing these events; likewise, a Boy Scout must keep himself physically strong because there is a Scouting law governing his actions. Thus, an action is obligatory when a normative law or rule makes it normatively necessary, permissible when a normative law makes it normatively possible, and so on. The differences between moral, legal, etiquette, and club obligations can thus be made out as differences in the sets of normative rules or laws grounding the modal categorization. For instance, a club obligation is an action made necessary by the rules of the club.

An obligation is thus typically held to be an action that is normatively necessary according to some normative rule or law. A normative law, however, does not necessitate one's action in the way that the law of gravitation makes a person stay on or near the surface of the earth. The laws of a state, club, or morality necessitate one's action not as nature or logic makes things necessary, because it is logically and naturally possible for a person not to act as these laws direct. What is normatively necessary is both logically and naturally not necessary, even if both logically and naturally possible.

For any deontic realm, there will be obligations *within* or defined by that realm, and there may also be obligations not defined by that realm, but whose performance is *regarding* the obligations within that realm—separate obligations to fulfill the obligations laid down by that deontic realm. (See Green, 1988) For instance, legal systems define certain legal obligations, such as the obligation

not to exceed a certain speed on a given road.. These are obligations *within* the law. Yet a club, such as the Boy Scouts, may define certain obligations regarding those obligations created within the law. Hence, one obligation of the Boy Scouts is never to fail in one's legal or moral obligations. This is an obligation within one deontic realm, the Boy Scouts, regarding the obligations within a distinct deontic realm, the law. In general, if there is an obligation *regarding* a given deontic realm (i.e., an obligation to fulfill the obligations laid down by a club, a state, or etiquette) then there must be some second deontic realm independent of it *within* which the obligation regarding that realm exists. One of the most important kinds of obligation regarding a deontic realm is the moral obligation to conform to legal obligations, often termed *political obligation*.

Normative laws can make one's actions necessary in a variety of ways. One way in which they might do this is if the laws are created as means to ends that one has. In order to vote, one must register; in order to get badges in the Boy Scouts, one must keep oneself physically strong; and so on. This can be called *instrumental* necessity. Many have thought that the necessity of any obligation must be instrumental. The laws of a state, for instance, would generate obligations for a given person when and only when those laws necessary are necessary for her security and the avoidance of sanctions for disobedience.

Most philosophers, however, have thought instrumental necessity is neither necessary nor sufficient for deontic necessity. It is not sufficient because a law backed up by sanctions alone seems not to be an obligation but rather extortion. The law must at least be in some sense a legitimate law of that deontic realm. Following the legal philosopher John Austin, a mechanism to establish the legitimacy of a normative law or rule can be called a *pedigree*. Systems of normative rules or laws require a pedigree that establishes the legitimacy of those laws or rules in creating a genuine obligation.

Instrumental necessity is not necessary for deontic necessity either. For instance, according

to the rules of chess, it is necessary that the bishop stay on his color; this is a normative necessity arising from a rule of chess. But that rule is not backed up by some clause such as “in order to avoid such and such penalty.” The rules of chess are in this sense “categorically” necessary. What is required for deontic necessity are laws that are nonoptional rules of behavior, and that at a minimum have a pedigree that makes them legitimate rules of the system.

Different deontic realms can have different pedigrees, and philosophers have offered different pedigrees for some deontic realms. For instance, philosophers such as St. Thomas Aquinas tied the legitimacy of a state’s laws to divine pedigree. Genuine obligations, both within and to the law, arise only from demands conforming to laws God laid down for our nature when he created us. Hence, genuine legal obligations arise only from laws that comport with this natural law. And the moral obligation to obey the law is grounded in our obligation to obey God. The view that the legitimacy of law arises from acts of will, or “voluntarism,” underwent a transformation as the vision of the universe grounded in God’s will receded. (For recent accounts of the history of modern thought about obligation, see Darwall, 1995, and Schneewind, 1998) Human acts of will—acts of choice, consent, agreement, promise—came to take the place of God’s will as a source of authority. Thomas Hobbes and John Locke, for instance, rejected Thomas’s view that each person’s good naturally comports with the good of others. Although we are naturally entitled to seek our own good, each person’s good is at odds with that of others. This conflict inevitably leads to a devastating loss for all as everyone tries to secure their own good at the cost of others. It is only by leaving this natural state that all can secure their good. Each person’s natural authority over himself is transferred to the sovereign or the community, which then comes to possess an authority to enact and enforce laws obligating them. And our obligation to obey those laws is based on something like a promise we have made.

Some version of the law-based source of obligation and some version of voluntarism as a

source of the legitimacy of those laws and the obligation to obey has held a dominant position among philosophers since the modern era began. Nevertheless, many have defended nonvoluntarist positions and/or have rejected the model of obligations as actions made necessary by a law. Some, for instance, hold that obligations are a special kind of reason that make actions necessary. Hence, the obligation to obey the law, for instance, is a reason that necessitates obeying it. Among voluntarism's important detractors was David Hume, who had misgivings both about the law-based analysis of obligation and about voluntarism as the required pedigree. Hume argued that consent "has very seldom had place in any degree, and never almost in its full extent." (II. XII. 20) We are born into or find ourselves with obligations. Obligations that we have because of our consent, such as promises, are few and far between. Hume's own view of obligation was complex and hard to deem entirely consistent. Nevertheless, the gist of his view was that deontic necessity should be explained in subjective terms: When I judge that someone has an obligation to perform some action, I judge that there is a admirable motive impelling her to do it. The motive might be unreflective and natural, as is the love of children. Or it may arise from reflection on the advantages of various institutions, such as property or promising. Such a motive gains legitimacy through my approval of it from an impartial point of view.

John Stuart Mill followed the spirit of this pattern of analysis, but focused on external actions rather than internal motives. His still influential account holds that an action is obligatory just in case failure to perform it justifies internal or external sanctions, "if not by law, by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience" (pp. 48–49). The pedigree granting authority to such internal or external punishments in the case of moral and legal obligations is general happiness. As David Lyons (1977) has argued, however, Mill's analysis in terms of justifiably sanctionable behavior is itself quite separate from his view of what justifies such sanctions, namely, the general happiness. Indeed, anarchists argue for a given analysis of political

obligation but then deny that any such thing exists on the grounds that no legitimacy can be given for it (see, e.g., Simmons, 1979, Wolff, 1998).

Most philosophical positions separate the legitimacy or authority of a law laying down obligations (moral or legal) from the reason to comply. Whether a rule or law in some deontic realm is valid is one thing; whether a person has reason to comply with its obligations is quite another. The most famous attempt to unify the legitimacy and reason to comply with moral obligations was that of Immanuel Kant. Kant's insight was to view moral obligations as stemming from laws that each person imposes on himself rather than from laws whose origin is external to the agent. In particular, moral laws are requirements stemming from deep inside—from a person's very capacity to act and choose on the basis of reason itself. If the source of a law was the moral agent himself, that is, if it were created and enacted by the agent's own rational will, then its authority would come from the agent himself, namely, the authority of his own rational will over his actions. Kant referred to this as the "autonomy" of a rational will. Moral obligations, in his view, stem from the demands of our own reason, and it is in virtue of this source that we have reason to comply.

## **Legal and Moral Obligation**

The two most salient deontic realms are law and morality. But how are legal and moral obligations related?

Positivism is the doctrine that our legal and moral obligations are quite distinct, that what the law *is* is a separate issue from what it ought to be. In the form originally propounded by Jeremy Bentham and Austin, legal obligations are generated by commands of the sovereign, or that entity whom society is in the habit of obeying, who is not in the habit of obeying anyone else, and who has the power to sanction noncompliance. H. L. A. Hart showed that this form of positivism is subject to fatal objections. (1994, pp. 27-42) It can account for neither the continuity of legal authority

across sovereigns nor the persistence of legal obligation after a given sovereign is gone. Moreover, he noted that it assumes that normative necessity must be instrumental necessity, which, as discussed above, is a mistake. What is needed are nonoptional *rules*, and sanctions are neither necessary nor sufficient for these (such as in the chess example). Part of the problem, Hart thought, was that Austin used *criminal law*, in which the law is a *barrier* to doing certain things, as his model for the whole of the law. *Civil law* (such as the law of contracts), in which law is a solution for various problems that would otherwise exist, is a much better model.

The law, Hart argued, is “a union of primary and secondary rules” (Hart, 1994, p. 107). Primary rules direct each how to act (“don’t eat shellfish,” “no one may sit higher than the king,” and so on). These rules impose genuine obligations, but not in the way that Austin thought. For Austin, rules are little more than means by which one can predict when the state will harm you. To see a rule in this way is to take an “external” view of it: conforming to the rules has no part in defining one’s membership in the society. The first step in having a legal system is to have a system of rules that most take an internal view of, or see as standards of criticism and justification of one’s behavior.

Hart argued that problems will inevitably arise in a system composed only of primary rules. First, in such a system, there will be *uncertainty* about whether a rule exists covering many situations and what to do when rules conflict. Second, the system will be too *rigid* to deal with changing circumstances. How will new rules come into and go out of existence? Third, the system will be *inefficient* in enforcing the rules and determining whether they apply in any case. What is required is a system of *secondary rules*, or rules concerning how to determine, introduce, abolish, change, and apply *primary* rules. Most importantly, what is required are *rules of recognition* that identify those features in virtue of which a rule is a rule of the group, to be supported by social pressures of various sorts. Rules of recognition are the sorts of rules that define lawmaking in U.S. state and federal legislatures.

Thus, a rule exists as a rule in some system if its pedigree can be traced to rules of recognition defining legality for that system. Notice that, in contrast to Austin's view, rules can exist even if nobody ever obeys them. As long as a rule is enacted in the right rule-defining and -creating way, it exists. Hart insisted, however, that the rule of recognition itself need not be backed in any sense by any standard of authority, legal or moral. A rule of recognition exists in the sense of an "external statement of fact," that is, if it is generally not disregarded in defining and creating law.

Positivism's stark separation of legal and moral obligation has been challenged most forcefully by Lon L. Fuller (1958) and Ronald Dworkin (1977). Fuller argued that if a given system of directives is immoral in a formal sense, then it will fail to be a legal system because it will fail to be a genuine system of rules. A system of directives is arbitrary if it does not conform to principles such as treating like cases alike, making its directives public, or not introducing directives after the fact. And an arbitrary system is not a system of rules. Moreover, a system possessing precisely these nonarbitrary features is also considered to be formally just. Thus, a system of directives that is not formally just is not a system of rules. If legal systems are systems of rules, then it follows that a formally unjust system of directives is not a legal system at all and does not generate legal obligations.

Dworkin's view challenges Hart's positivism by arguing that the law requires more than merely formally moral features. He argues that the actual practice of judges shows that legal systems contain elements from the moral traditions within which they arise and to which a judge's decisions must appeal to be valid. In cases that are not clearly covered by an existing law, judges in his view actually legislate, reaching outside of the law to make laws on the basis of good social policy. Dworkin argued that this does not match either actual or good judicial practice. Legal systems are composed of more than rules. They include principles invoking moral rights and obligations that judges are bound by in deciding cases. Indeed, what litigants are typically claiming is that some

principle protecting a right is on their side. For Dworkin, there is always a determinate answer to the question of who has a right. Thus, there is always a determinate solution to legal conflicts to which litigants have a right and the judge is bound to find and deliver. Dworkin's own account of the pedigree of law therefore requires invoking moral principles and so implies that judges do not have discretion to create legal obligations as required by Hart's account. They must find the answer to which litigant's rights to protect, and not by intuition, but by articulating and defending a view of rights. Thus, for Dworkin, there is no sharp separation of legal and moral obligations.

### **Obligations, Roles, and Identities**

The problem of political obligation is the problem of establishing an obligation within the moral deontic realm regarding the legal deontic realm—a moral obligation to obey the law. Many offer the voluntarist account, that the moral obligation is based on what is in effect a promise. Others think that moral obligations, and *a fortiori* political obligation, are all tied to promoting the overall good. Still others follow Socrates in thinking we owe an obligation of gratitude to the state for preventing harms and facilitating our good. Some have argued, however, that the whole issue is illusory because “it is part of the concept, the meaning of ‘law,’ that those to whom it is applicable are obligated to obey it” (Pitkin, p. 214). “U.S. citizen” means “person obligated to comply with U.S. laws”.

Obligations are in effect parts of our ordinary concepts defining our positions and roles. The seemingly deep question of whether a U.S. citizen is “really” obligated to follow U.S. laws either betrays a confusion about what “U.S. citizen” means or takes the language “on holiday”—that is, uses terms such as *obligation* and *law* outside of the contexts in which they have a meaning.

In the early twenty-first century, this conceptual argument has few adherents on the grounds that it does not dissolve the problem so much as relocate it. (See, e.g., Pateman, 1979, Simmons, 1996) Suppose “citizen” *does* just mean “someone with a genuine obligation to conform to the law.”

Then we may legitimately ask, Is anyone genuinely a citizen in this sense? Clearly, the selfsame problem has returned dressed in new clothing. Many, however, agree with the view that obligations come with one's social roles and positions. So although the connection between role and obligation is not *analytic*, it is still true in a deeper substantive sense that to occupy many roles means having certain obligations. The origins of the position are in Georg Wilhelm Friedrich Hegel, and a version of it was defended in F. H. Bradley's famous essay, "My Station and Its Duties." It can be found most prominently in "communitarian" views of such late twentieth-century figures as Margaret Gilbert, Michael Hardimon, and John Horton.

The basic outline of the idea is as follows: The conception of the bare presocial individual who voluntarily takes on various obligations and agreements is illusory, an abstraction. A person *just is* a collection of social roles, a nexus of connections to other roles in a social fabric, very few of which are voluntarily assumed, and none are in any deep sense voluntary. When you tell someone who you are, you tell them about the collection of positions you occupy in a variety of social structures and institutions—a parent, an American, a teacher, a lawyer, an Oregonian, a writer. Your social identity may include your gender, race, and sexual preference. If each person is made up to a significant degree by these roles, then we are deeply identified with them, in the sense that we are attached to these positions as "who we are." Each of these roles comes with a set of obligations: To be a parent is to be someone genuinely obligated to care for her child, to be a teacher is to be someone genuinely obligated to instruct students, and so on. The view is thus not that the meaning of the word *teacher* is "someone obligated to instruct," but that what it is to actually occupy this position is to have such a genuine obligation.

This viewpoint has come to enjoy wide acceptance. It faces serious difficulties, however, not the least of which is an analog of the question facing the conceptual argument. For even if to have a certain obligation just is to occupy a certain role, there seems to be a meaningful question about the

normative status of that role and the practices that create it—a question of whether one *ought* to occupy that role, and moreover whether its obligations are genuinely binding. A defender of such obligations has to deny that there is any question of what one is genuinely obligated to do *beyond* what is laid down by one's social positions. The question “Ought I occupy this role and take on these requirements?” can be understood only from the perspective of some *other* role and its requirements. It asks only which social position or role should win out when there is a conflict. No single distinctive question about what one ought or ought not to do can be asked of social positions and their directives in general, because there is no single distinctive position or role that every person has in common with every other person.

In her 1996 book, *The Sources of Normativity*, Christine M. Korsgaard applied a similar strategy to the problem of moral obligation. In her view, this is a requirement stemming from one's “practical identity”—an identity that is constituted by ongoing commitments to act in various ways in various circumstances. Her insight is that the power and legitimacy of obligations are tied to a sense of one's own identities. As mentioned earlier, most of us think that there are some actions about which we say “I would rather die than do that”—that the necessity of some moral obligations is sufficient to put the acceptance of death on the table as an option. Korsgaard takes this talk seriously. If death is the loss of identity, the necessity of obligation comes from the threat of this loss. There are actions one would rather die than perform, or at least things the doing of which would be as good as dying. But combining the idea that death is a loss of identity with the idea that everyone has a multiplicity of identities tied to various positions and roles yields the idea that we might die *as an F*, where *F* names some role or position we occupy. Thus, to be a parent *requires one* to pursue the care of one's child. To stop this pursuit *just is* to give up that practical identity (insofar as this is a “person who cares for her child”), and hence to *die* as a parent. The necessity of parental obligation is thus tied to the persistence of one's identity as a parent. Where Korsgaard differs from

the neo-Hegelian turn discussed above is that she holds that some identities are not merely social roles. In particular, our deepest identity—an identity it is impossible for us rationally to lose or throw off—is our identity as a reflective rational agent. This identity, she argues, is constituted by a requirement to respect this reflective agency in oneself and others. Failures of respect are in this way moral deaths, ways of giving up one's identity as a rational agent. This, she contends, explains the special grip or authority of moral obligation.

### **Agent-Relative Obligation**

Much debate late 20<sup>th</sup> century moral philosophy has been over how deep the distinction between agent-relative and agent-neutral obligations goes and whether the existence of agent-relative obligations is compatible with utilitarian moral theories. Recall that agent-relative obligations seem to have a special attachment to the person whom they bind. This is particularly the case regarding moral obligations: I see children who need caring for and can with no cost to myself care for one but not all. I have a moral obligation to care for one, then, but it does not seem to matter which. Indeed, everything else being equal, any other person in my place would have this obligation. By contrast, suppose one of the children is my own son. It seems that I ought to care for my son over the other children, that it now matters morally which one I care for and that I do the caring. This is an agent-relative obligation: I have an obligation that *I* care for *my* son. The puzzle is that every child is equally valuable in objective terms; my son's care has no more and no less intrinsic value than the care of anyone else's child. Of course, he is more valuable *to me*, but that is not an objective measure of his value. Further, it would be abominable for me to care for my own child, but justify it by saying "I can't care for all children, so I flipped a coin and my son won." I seem to have an obligation *to him*, and he has a claim on my care that no other person has. How is that possible if there is no more objective value in my son's care than in the care of any other child?

To take another example, we are morally obligated not to torture. But suppose you could reduce the number of torturings in the world by a few by torturing some one innocent person. It is very tempting to think that you still have an obligation not to torture that person, even if by doing so you could bring about the reduction in torturings. You seem to have here an agent-relative obligation that *you* should not torture, rather than simply an agent-neutral obligation to prevent torturings. How is this possible? Surely if one torturing is evil, two are more evil, three even more so, and so on. Surely you should bring about as little evil as possible in the world. Moreover, if we increase the number of torturings you could prevent, there will be some number at which everyone will relent and say you ought to torture to prevent other torturings. So how could it be wrong to prevent more of the very same ills that one thinks one should bring about oneself, and only in some cases but not others? Much late 20<sup>th</sup> century work on obligation has focused on just this question.

Utilitarianism has been most often associated with the view that there are no genuinely agent-relative obligations, that all of our obligations are agent-neutral. Our fundamental obligation is always to bring about the better state of affairs. This is indeed a very intuitive position: How could it ever be impermissible to bring about the most good? Shouldn't one always do this? Some, such as Samuel Scheffler (1994), have argued that agent-relative *permissions* can be defended, but not agent-relative *obligations*. That is, we can be permitted, but not obligated, to tell the truth even when our lying would bring about more truth-telling. What justifies a permission here for Scheffler is the agent's need to preserve his integrity (or, for Thomas Nagel, his autonomy) as a moral agent. Others have taken a stronger position that there are genuine agent-relative obligations. For example, you have an obligation not to torture even if by torturing you would bring about fewer torturings overall. Nagel argues that such an obligation is justified on the grounds that one must never be led by evil. Whether these or related arguments will ultimately prove successful is an ongoing concern of moral philosophers.

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*See also*

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