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Authority, Plurality, and Anarchist Scepticism

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Abstract

According to A. John Simmons's anarchist scepticism, there is no duty to obey the law as things stand, as legal obligations have legitimacy only when voluntarily incurred by most or many citizens. However, an alternative, pluralist position is suggested by Simmons's sensitivity to the diversity of reasons and to the possibility of unresolved conflict. It shows that the grounds of legitimate authority are plural, and include distributive justice. Also, even voluntarily incurred obligations can be defeated by conflicting reasons, as when we are duty bound to an unjust regime.

Résumé

Selon le scepticisme anarchiste d'A. John Simmons, il n'y a pas d'obligation d'obéir à la loi dans l'état actuel des choses, car les obligations légales n'ont de légitimité que lorsqu'elles sont volontairement contractées par la plupart ou de nombreux citoyens. Cependant, la sensibilité de Simmons à la diversité des raisons et à la possibilité d'un conflit non résolu suggère une position alternative pluraliste. Celle-ci montre que les fondements de l'autorité légitime sont pluriels et incluent la justice distributive. En outre, même les obligations contractées volontairement peuvent être annulées par des raisons contradictoires, comme lorsque nous sommes liés par le devoir à un régime injuste.

Keywords: anarchism; authority; distributive justice; pluralism; A. John Simmons

1. Introduction

Those holding political power do not merely issue rules, laws, and orders. They claim to do so with *de jure*, legitimate authority. That is, they claim a right to rule, and that those over whom they rule are duty bound to obey (Hart, 1990; Raz, 2009b). As authority demands deference in this way, we are compelled to ask whether it has legitimacy and if so for what reasons. For one line of thought, associated with John Rawls in particular, most of us are duty bound to obey the law because most of us live in societies that are just (or near just) (Rawls, 1971, pp. 113–114; see also Christiano, 2004, p. 278, p. 279). However, others reject that conclusion and the premise on which it is based. In its place, they offer a sceptical anarchist position on authority

in general and the duty to obey the law in particular. And for the last four decades, A. John Simmons has been perhaps the most important voice in this tradition.¹

Simmons's anarchism is in part composed of positive theses about the importance of autonomy. Thus, he maintains that voluntary acts can give legitimacy to political authority, and that respect for autonomy is a fundamental value (Simmons, 1979, p. 16, 1993, p. 260). But there are also his negative arguments, and here I focus on the following two. First, he maintains that, as things stand, there is no moral duty to obey the law. This is the case because, he argues, legal obligations must be voluntarily incurred and this must be the case for "most (or at least many) citizens," and currently neither criterion is met (Simmons, 1979, p. 45, p. 55, p. 143, 1996b, p. 22, 2005, p. 120, p. 161, 2016, p. 129). In addition, although we are, Simmons concedes, bound by the demands of distributive justice, these considerations are secondary to, and are defeated by, the requirement to respect autonomy. This is because our moral ideal is a voluntarist political system; and its attainment is the most pressing issue (Simmons, 2010, p. 36, 2016, p. 86, p. 129).

Simmons provides ample defence for his positive arguments, which I detail below (Section 2). Things are less straightforward, however, concerning his negative, sceptical arguments.² In this article, I argue that his autonomy-based rejection of authority is vulnerable to the same objection he advances against the justice-based defence of authority we see in Rawls and others: i.e., they both tend towards monism, assuming, as they do, that the grounds of authority are singular rather than plural, and that there is a general rule for the resolution of moral conflicts. However, and as others have begun to notice (see Klosko, 2004; Walton, 2013; Wolff, 1995), Simmons's work is also characterised by sensitivity to the diversity of reasons, and the potential for unresolved conflict between reasons. And I want to use these pluralist moments in Simmons's own work as a basis upon which to begin sketching an alternative argument, one more in line with both those defending plural grounds of authority (see Gans, 1992; Klosko, 2019; Wolff, 1990–1991) and those offering a value pluralist approach to moral conflict (see Berlin, 2004; Crowder, 2004; Fives, 2021; Gray, 2013; Marcus, 1980; Williams, 1965).

First, because of his sensitivity to the variety of reasons, Simmons's work shows that grounds of authority are plural, and they include distributive justice (Section 3), and that authority can have legitimacy even when many citizens are not bound in this way (Section 4). Second, his sensitivity to the possibility of unresolved conflict between reasons indicates that even legitimate political authority is the locus of ongoing moral conflict. In particular, the demands of distributive justice might, at times, be more significant than the respect owed to autonomy and hence also our voluntarily incurred obligations (Sections 5 and 6). These points have important implications for the ongoing controversy over the duty to obey the law. For a start, as Rawls and others have said, the demands of justice are sufficient to render us obligated. But, for the pluralist position sketched here, justice is not necessary for legitimacy: it is (merely) one among other possible grounds of legitimacy. What is more, as there is no general

¹ For an overview of this debate, see Horton (2010), Klosko (2019), and Knowles (2010).

² For critics of his anarchist scepticism, see Copp (1999), Gans (1988), Horton (2010), Raz (1985), Waldron (1993), Walker (1988), Wolff (1990–1991).

rule for the resolution of moral conflicts, nor is it the case that justice will always triumph over other, conflicting demands, including respect for autonomy.

2. Anarchist Scepticism

I start with the anarchist sceptical position on authority. As we saw, legitimate authority entails a right to rule, and a corresponding duty to obey. It requires deference, for an authoritative directive is a reason to act independent of the quality of the action demanded and regardless of the weight of some of the reasons to act or not to act in this way (Simmons, 2016, p. 13, p. 15). Some anarchists, so-called *a priori* philosophical anarchists, reject the very idea of authority. If we obey a law independent of what we think about the law, we are, it is argued, reneging on our responsibilities as autonomous agents (Wolff, 1998, p. 12). In sharp contrast, for Simmons's *a posteriori* philosophical anarchism, whether those in power have legitimate authority is a matter requiring investigation on a case-by-case basis (Simmons, 1996b, p. 23, p. 25). And Simmons sets out the conditions under which authority does have legitimacy, but also shows why, for him, none of us has a moral duty to obey the law as things currently stand.

Simmons advances two lines of argument here. The first is that an account of authority must satisfy what he terms “the particularity requirement,” and, he concludes, only voluntarist lines of argument can do so. Simmons is, as he says in his first book, *Moral Principles and Political Obligations*, “only interested in those moral requirements which bind an individual to one *particular* political community, set of political institutions, etc.” (Simmons, 1979, p. 31). This follows, he says, from the object of his investigation: “A political obligation is a moral requirement to support and comply with the political institutions of one's country of residence” (Simmons, 1979, p. 29). What we must determine, therefore, is what grounds our obligation to *this* particular political community.

In addressing that question, Simmons takes what he refers to as “the more traditional approach, concentrating on individuals' political histories and analyzing their obligations in terms of acts performed, benefits received, etc.” (Simmons, 1979, pp. 44–45). He further clarifies that, like John Locke, his approach is “deontological and ‘backward looking’” (Simmons, 1979, p. 45, 1996a, 2005, pp. 116–117). For example, if we have freely cooperated together, producing benefits for each other, it would be unfair, Simmons maintains, to accept the benefits and yet not also perform our obligations (Simmons, 1987, p. 273, p. 275). But it is not simply that our voluntary acts can render us obligated. It is that the particularity requirement could only ever be satisfied, Simmons concludes, by a voluntary commitment. This is the case because, as Simmons says in *On the Edge of Anarchy*, “Locke is correct in claiming that each person is born to natural freedom (i.e., to *moral* freedom from political obligation and the *de jure* authority of others)” (Simmons, 1993, p. 260 n. 93). As each one of us is naturally, morally free, only our own voluntary acts can render us obligated to others.

This line of thought brings us directly up against the Rawlsian position on authority. Simmons accepts that we do have a natural duty of justice. As Rawls puts it, it “requires us to support and to comply with just institutions that exist and apply to

us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves” (Rawls, 1971, p. 115). But Simmons does not believe the duty of justice satisfies the particularity requirement. This is in part because there are many just regimes, but their being just does not help determine which one has authority over *us*, here and now. In fact, when Rawls refers to just institutions that “exist and apply to us,” he is, according to Simmons, guilty of presupposing what needs to be shown, namely that justice satisfies the particularity requirement: that the just regime in question “applies to us” in the relevant sense of obligating us (Simmons, 2005, p. 162).

Only voluntarily incurred obligations have legitimacy, Simmons says, but there are four kinds. They include the obligations of commitment (fidelity and consent) and of reciprocation (fair play and gratitude) (Simmons, 1979, p. 16). Any one of these *could* satisfy the particularity requirement. However, in existing political communities, Simmons argues, none of these satisfies a second criterion: generality. This is the requirement that, as Simmons puts it, obligations must be valid for “most (or at least many) citizens” (Simmons, 1979, p. 55). For example, consent alone can “clearly account for the political obligations of citizens in existing states,” he contends, but nonetheless it fails as a theory of political authority because it accounts for the obligations of only “a very few citizens (such as naturalized citizens)” (Simmons, 1979, p. 191). The same is true of fair play and gratitude. We *can* take on legitimate obligations as part of a cooperative scheme based on the principle of fair play, but only, Simmons insists, so long as we are not “dropped into” that scheme (Simmons, 1979, p. 137; see also 1987, p. 271, 2019, p. xvii). Similarly, genuine obligations of gratitude arise only from benefits that have *not* been, as he says, “illegitimately forced on us against our will” (Simmons, 1979, p. 177). Of course, many of us have benefitted from the collective provision of public goods. But it is not the case that “most (or at least many)” of us have *voluntarily* benefitted. And, our community is guilty of taking “unfair advantage” of us, Simmons concludes, if it insists we are obligated because of the benefits it “unilaterally foists” upon us (Simmons, 1993, p. 258).

What follows from these two lines of argument? Simmons claims that only voluntary acts can justify obligations, but that even if some of us are obligated in this way, this is not the case for most (or at least many) citizens. At times, he goes further still. To begin with, he states there are not four voluntary grounds of obligation but only one: i.e., consent. “My own view,” he says in *Is There a Duty to Obey the Law?*, “is that actual consent is the only possible ground of a moral duty to obey the law” (Simmons, 2005, p. 120, n. 10; see also 2016, p. 118). At other moments, he also insists that authority must be not just general but universal. This is clear when he notes that, although there is a natural duty of justice, determining exactly what that duty requires will “involve at least reasonably sophisticated empirical judgments about the likely consequences of various courses of action,” and so, “it seems highly improbable that our conclusions would be the same for *all* citizens of *all* reasonably just states” (Simmons, 2005, p. 161; emphasis added; see also 2005, p. 135, p. 145). That is, even if justice could satisfy the particularity requirement (which he doubts), the natural duty of justice cannot ground our political duties because it will not do so universally. This is an even stricter version of his Lockean anarchism, although the evaluative implication is not all that different from the less demanding one.

Whether authority is based on consent alone or on any one of the four voluntary grounds, and whether it must be universal or instead merely general, the conclusion is the same: there is no moral duty to obey the law as things currently stand. The practical significance of this claim is indeed great, in particular when we consider its implications for the obligations of the most advantaged individuals in any community. For Rawls, because justice is the ground of authority, the most advantaged have duties to support institutions that work to benefit the least advantaged. For Simmons and other voluntarists (see Nozick, 1974, p. 169), in sharp contrast, those who have benefited from membership of a polity, including those treated fairly, will have no duty to obey its laws, including tax laws designed to rectify injustices in that society, unless they voluntarily accept those obligations (Simmons, 1993, p. 258).

So far, I have focused on two positive arguments advanced by Simmons, namely that our voluntary acts can render us obligated and that each person is born to natural, moral freedom, a freedom that must be respected. In addition, I have outlined one of his negative arguments, namely that, as things stand, we do not have a moral duty to obey the law. But there is one further negative argument to consider. It is that the requirement to respect autonomy is not only a fundamental value. At times, Simmons contends that other conflicting reasons, including those arising from the demands of distributive justice, could never defeat the requirement to respect autonomy. In these moments, Simmons not only claims that a voluntarily incurred (i.e., autonomous) political obligation is a reason for action: he appears to be saying that there is what Isaiah Berlin would term a “general rule” for the resolution of moral conflicts,³ according to which voluntarily incurred obligations always defeat other conflicting reasons.

As Simmons makes clear in his most recent book, *Boundaries of Authority*, he is advancing an “ideal theory” that will identify both our “moral target” and the wrongs that are the “most grievous” (Simmons, 2016, p. 86, p. 129). The ideal in question is a Lockean one, according to which authority is based on the consent of each, so that “each person is, as fully as possible, treated as a self-governing equal” (Simmons, 2016, p. 129, p. 117; see also 1992, pp. 341–342, 2010, p. 36, 2019, p. ix). In turn, authority lacks legitimacy, for Simmons, “Where controlling me is not necessary for respecting another’s autonomy” (Simmons, 2005, p. 149). That would mean that “controlling me” lacks legitimacy when it is necessary to remedy distributive injustices, but is *not* necessary for respecting another’s autonomy. Another way to put the same point is that it is not distributive injustice that is the most grievous wrong. Rather, it is wrongful coercive subjection, namely where we “[...] coerce or restrict the freedom of the unwilling [...]” (Simmons, 2016, p. 122).

When we reflect on Simmons’s philosophical anarchism as a whole, the positive arguments are barely controversial. There is no reason to seriously doubt that voluntary acts *can* give legitimacy to political authority, and that respect for autonomy is a fundamental value. Things are less straightforward, however, when we consider Simmons’s negative arguments: that, as things stand, there is no moral duty to obey the law; and that the demands of distributive justice cannot defeat the

³ See Berlin (2004, pp. 172–173). The general rule in question stipulates what reason or consideration is a conclusive reason. For an account of conclusive reasons, see Raz (2011, p. 22, p. 109).

requirement to respect autonomy. Not only are the latter two claims controversial; as I hope to show, Simmons's own work provides suggestions for an alternative line of thought. To begin with, his sensitivity to the diversity of reasons shows that there are plural grounds of authority, and that distributive justice is one of those grounds.

3. Plural Grounds of Authority

Are the grounds of political authority plural or singular? In what we have already seen, Simmons gives two different answers to that question. At one point, we are told "that actual consent is the only possible ground of a moral duty to obey the law," but at other moments he is happy to accept four different possible voluntarist grounds of authority. Also, singularity of ground, which he refers to as "the requirement that there be one and only one ground of political obligation," is rejected as a mistake: "That this is a mistake is, I assume, fairly obvious; a presumption in favor of singularity seems, in the absence of special argument, unwarranted." Simmons also notes that "the consent theorists have been more guilty of this mistake than anyone else" (Simmons, 1979, p. 35).

What follows from Simmons's rejection of singularity of ground? For some critics, this is simply a point about methodology. According to this interpretation, Simmons's method is to examine every possible ground of authority, but he does so in order to determine whether any one of them, as a single ground, justifies our political obligation (Klosko, 2004, p. 801). But not everyone agrees with that interpretation. The alternative view is that Simmons rejects the assumption that, if there is some justification for authority, it can come from one ground, and one ground only (Wolff, 1995, p. 13). Indeed, this seems to me the correct interpretation, given what Simmons goes on to observe directly after rejecting singularity of ground:

We might note in this context that even the first recorded argument for political obligation, that of Socrates in Plato's *Crito*, suggested at least three distinct grounds of political obligation (that the state was a good state and was thus owed obedience, that the state was a benefactor to be repaid, and that Socrates had tacitly consented to the state's authority over him and so become bound). (Simmons, 1979, p. 35)

When Simmons rejects singularity of ground, he leaves open the possibility that we, like Socrates, will uncover a plurality of grounds, working together, justifying authority. If that is the case, Simmons's work is part of a wider movement defending plural grounds of political obligation. It reflects a conviction that the evaluation of political obligation can be strengthened by letting the variety of different justifying considerations work together.⁴

A commitment to plural grounds of authority involves accepting a diversity of reasons appropriate to the evaluation of political authority. However, this is not to be confused with the argument, also advanced by Simmons, that the *legitimacy* of a

⁴ For the pluralist approach to political obligation, see Gans (1992, p. 43), Klosko (2004, p. 801, 2011, p. 515), and Wolff (1995, p. 24).

regime is distinct from its *moral justification*. Simmons notes how a regime can boast various positive qualities, including its justness, that call on us to support it in its functions, even if it does not have legitimate authority, and so we do not have a duty to obey its laws (Simmons, 1999, p. 769, p. 770, 2005, p. 148). That is, legitimacy is one thing; moral justification is another. But the point I am making here concerns the grounds of legitimate authority itself. It is that, when we evaluate the legitimacy of political authority, we draw on a plurality of grounds.

If the grounds of authority are plural, what are those grounds? My argument here is that Simmons's work shows us that distributive justice is one of the grounds of authority. I think this becomes clear if we consider Simmons's defence of a pluralist methodology that encompasses both a structural and historical argument.

In considering the structural argument, Simmons's aim is, at first, a negative one: he objects to Kantians (including Rawls) who maintain that, insofar as the basic structures of society are just, as they are in a democratic society with "power-sharing arrangements that are fair," then legitimate political authority is produced "even without individual (or even general) consent" (Simmons, 2016, p. 28). More precisely still, what Simmons objects to here is the "monistic" quality of Rawls's argument, according to which a state's authority is grounded solely in structural considerations. Indeed, he criticises fellow voluntarists on precisely the same grounds. He castigates Robert Nozick for "his unrelenting historicism" in thinking that the past voluntary actions of those involved are "the whole story" in determining the boundaries of authority (Simmons, 2016 p. 60, p. 78). Rather, Simmons says, those boundaries are determined by *both* historical and structural considerations:

Whether a state acquired its control through bloody conquest or willing participation seems important to the extent of its legitimate territorial claims, just as does the structure of institutions through which it exercises that control. (Simmons, 2016, p. 60)

Simmons's defence of the structural argument is striking, because it cannot be contained within what he himself refers to as his "backward-looking" Lockean political theory. Admittedly, Locke does insist on an egalitarian component of the initial just acquisition of property and territorial rights, "one that entitles all to access to a fair share of the earth and its resources" (Simmons, 2016, p. 124). Clearly, however, the Lockean egalitarian proviso is part of the *historical* conditions lending legitimacy to territorial rights. In contrast, when Simmons calls for the inclusion of structural considerations in the analysis of authority, he is referring to structural factors here and now, in the *present*. Not only that, based on what Simmons says, distributive justice is one of the relevant structural considerations. That is, when he talks about the importance of structure, Simmons does not simply have in mind the way in which the polity respects autonomy in the present by the structures it imposes.

First, Simmons's defence of the structural argument entails that legitimacy is *not* determined solely by past voluntary actions. This is a significant development. As we saw, Simmons insists that the particularity requirement could only be satisfied by a backward-looking, historical approach, and that explains his criticism of the very idea of non-voluntary obligations, including those based on membership of a just

polity.⁵ However, his defence of the structural argument undermines that assumption. Of course, that by itself does not provide an argument to show that distributive justice can or does satisfy the particularity requirement. The point remains, however, that his defence of the structural argument removes any presumption against the very possibility of a non-historical approach satisfying the particularity requirement.

Second, Simmons takes Rawls to be representative of the structural argument, and, as we know, for Rawls, justice is the sole ground of authority. Rawls's monism is one thing, and it is something Simmons rejects. Nonetheless, if Simmons is right to say that the structure of the regime is relevant to its legitimacy, and if he uses Rawls to illustrate that point, it is reasonable to ask whether distributive justice is, at the very least, one of the grounds of authority. Indeed, Rawls has a capacious understanding of justice — one that might be said to incorporate Simmons's concern with Lockean liberties. For Rawls, there is a first principle that addresses our (Lockean) civil and political liberties, but there is also a second principle concerned with inequalities in the distribution of opportunities, income, and wealth (Rawls, 1971, p. 302). If justice is one possible ground of authority, then the just distribution of opportunities, income, and wealth also may be one of those grounds.

To further explore that possibility, let us look at an example from Simmons's own work. When Simmons talks about a structural approach to authority, that is part of his *ideal* theory, the aim of which is to specify the ideal towards which we strive. His *non-ideal* theory is to identify how to move towards that ideal, when we think about what is feasible, permissible, and most effective in our current environment (Simmons, 2010, p. 24). As part of his non-ideal theoretical work, Simmons considers the situation of contemporary Native Americans. They count as “wrongly acquired subjects and territories,” Simmons argues: people who were conquered and forcefully included into the polity (Simmons, 2016, p. 88). But he is willing to concede that, from the point of view of non-ideal theory, this might not be the most pressing issue. In the present, he concludes, “achieving structural justice should have priority (over responding to past wrongs of subjection),” although the caveat he adds is an important one: “But we should only do so while understanding that as moral agents and social beings we have an eventual duty to do better,” where what is “better” is, clearly, to respond to past wrongs of subjection (Simmons, 2016, p. 89, p. 90).

Where does that leave us regarding the grounds of authority? If the grounds of authority are plural, and if we should approach authority from a concern with structure as well as history, then distributive justice is at least one candidate for satisfying the particularity requirement, whether it does so in whole or in part. Rawls, of course, would go further, arguing that justice is both necessary and sufficient for legitimacy: i.e., not only are we required to support just institutions that apply to us, we cannot be obliged to obey unjust laws. However, we need not go down that route, a point I return to later (Section 6). What we can say is that distributive justice is one possible ground of authority. At times, it is sufficient to render us obligated. After all, what Simmons does say suggests that the structural injustice experienced by one group (Native Americans) is sufficient justification for the duties of the wider society to remedy that injustice: other citizens

⁵ For Simmons's critique of associative obligations, see (Simmons, 1996a). For a qualified defence of non-voluntary obligations, see Fives (2022).

need not also voluntarily accept those obligations. And when we consider the experiences of Native Americans, including how continued *de facto* school segregation is linked to poorer school outcomes for Native American children (Logan, Minca, & Ader, 2012, p. 296), the structural injustices they experience concern not just their Lockean liberties but also (among other things) their present and future opportunities, income, and wealth. Whether Simmons would be happy to explicitly endorse obligations with such a clear redistributive intent is an open question. The point remains, his pluralist approach to the grounds of authority has shown that distributive justice is sufficient for legitimacy. And as that is the case, there is no justification for the sceptical anarchist contention that only voluntarily incurred obligations can have legitimacy.

4. The Problem with Generality

I have been questioning the anarchist sceptical thesis that, as things stand, there is no moral duty to obey the law. In the previous section, I focused on the contention that legal obligations must be voluntarily incurred. In this section, I examine whether Simmons has defended the second pillar of his sceptical position, namely the requirement that most (or at least many) citizens are obligated in this way.

His critics contend that Simmons offers nothing like a compelling justification of the generality requirement (see Walton 2013, p. 8). There is some truth to that. At one point, Simmons says simply that generality is “regarded” as the “primary criterion of success” by most other theorists, and that this presumption also operates on “a purely intuitive level,” and that these facts by themselves are reason enough to make it a requirement of a successful theory of authority (Simmons, 1979, p. 38, p. 56). That is, it is widely assumed that, if a regime has legitimacy, most or at least many of its citizens have a duty to obey the rules of the regime. One could argue that Simmons does not need to show *why* generality is a necessary feature of a theory of authority. He just needs to show that it *is* commonly taken to be a necessary criterion, and that no theory of authority can meet this demand.

Nonetheless, at one point, Simmons does offer a defence of generality, one that is based on his reading of Malcolm Smith; but, as we shall see, there are problems with his reading. In the relevant passage from his first book, Simmons starts by rejecting universality. He says that the demand for universality “is that political obligation be what M. B. E. Smith has called a ‘generic obligation;’ the obligation is supposed to be one which all citizens, or else all citizens in some particular state, owe to their government” (Simmons, 1979, p. 36). Of course, we have seen that Simmons himself, at various moments, actually embraces the idea of universality. Nonetheless, in his first book, Simmons is wary of the idea of a *universal* political obligation because, he says, it is often used to justify the conservative contention that, if any one person is obligated, everyone else must be as well (Simmons, 1979, p. 37). He then insists that political obligation must at the very least be general, although he does not explain why generality is not open to the same criticism (namely, the tendency towards conservatism) he levels against universality. In any case, that is not the most important point here. What matters is that Simmons wants to use what Smith says about a generic obligation to justify the criterion of generality, but Smith’s argument can be interpreted in a quite different way.

Smith's argument is that someone, S, "has a *generic* prima facie obligation to do X if, and only if, S meets some description D and the generic statement "Those who are D have a prima facie obligation to do X' is true" (Smith, 1973, p. 951). On Simmons's reading, "a 'generic obligation' is one necessarily shared by all members of some group (more than one person), that group not being defined by reference to some acknowledged principle of obligation" (Simmons, 1979, p. 36 n. i). That is indeed *one* meaning of a generic obligation, but it is not clear that it, by itself, justifies the requirement of generality. After all, and as Simmons says, a generic obligation may be shared by as few as two people (i.e., more than one person). In any case, the second meaning of a generic obligation has no connection with generality. As is clear from Smith's text, if a political obligation is generic, it is a content-independent reason for action: an obligation to act independent of the quality of the obligatory action. Indeed, in more recent work, Simmons himself uses the term "generic" in precisely this way. While the pronouncements of practical "authorities" "give us reasons that are independent of the actual content of the pronouncement," my "generic" obligations to the state, according to Simmons, correlate with the state's authority or right "to dictate [...] what the precise content of my unspecific obligation [...] shall be" (Simmons, 2016, p. 13, p. 15). If a law has authority in this way, it is also a content-independent reason. We then have, as Simmons says elsewhere, a "*political* obligation to obey the law *because* it is the law" (Simmons, 1996b, p. 24).

My generic obligation is a reason to act, independent of the content of the obligatory action. As we know, *a priori* philosophical anarchists reject the very idea that we can be bound in this way, and Smith's aim in talking of a generic obligation is to distinguish it from the kind of obligation acceptable to such anarchists. Hence, according to Smith, a generic obligation is *not* an "obligation to obey particular laws" when they are laws that prohibit acts that we are already morally obliged to refrain from, such as "murder, rape, or breach of contract" (Smith, 1973, p. 951). Rather, when we ask whether an obligation is generic, we are asking: "Is the moral relation of any government to its citizens such that citizens have a prima facie obligation to do certain things merely because they are legally required to do so?" (Smith, 1973, p. 952).

What Smith is saying here about a generic political obligation is that it is a content-independent reason for action. If we have a generic obligation to obey the law, this is an obligation to obey, independent of the quality of the act that the law requires. This is a thesis about the way in which we are bound by a legitimate authoritative directive. Of course, Smith also says that a generic obligation applies to all who meet a certain description, D. And, in any one context, it might be that D will be what Simmons thinks it will be when an obligation is general: i.e., it will be a description of most (or at least many) citizens. But that need not be the case; or at least, it need not always be the case. It might be that only some duties are general while others are limited to a sub-set of citizens, say citizens who have taken on added responsibilities, as both Rawls (1971, p. 114) and Joseph Raz (2009b, p. 245) have it. Smith's concept of a generic obligation leaves open that possibility, because it does not specify D.

Not only is Smith's conception of a generic obligation such that it need not be a general obligation; at certain moments, Simmons himself accepts that not everyone need be bound by legitimate authority. Thus, Simmons "can see no obvious

objections to a theory which allows that some people have political obligations while others, and even others in the same state, do not” (Simmons, 1979, p. 36). There is one way to reconcile what he says here with his anarchist scepticism: he is (it might be said) showing there can be genuine political obligations, and at the same time confirming there is no general duty to obey the law as things currently stand. But there are two reasons why what he says here, and above, makes his anarchist scepticism ever less plausible.

First, generality, along with voluntarism, are very demanding criteria of legitimacy. It is difficult, maybe impossible, to satisfy them, certainly as things stand. But if we are right in concluding that there is no compelling justification for either criterion, this severely weakens the anarchist sceptical position. It shifts the balance considerably in the dispute between anarchists and those defending the duty to obey the law.

The second point is that the modern state might have legitimate authority, although its authority is not general. Indeed, at one point, Simmons concedes that legitimacy can be complete or partial, depending on whether the “morally significant relations” between state and citizen from which political obligations arise “hold with all or only with some of those against whom the state enforces the duties it imposes” (Simmons, 1999, p. 746; see also 2016, p. 53). If we are open to this possibility, if we do not rule it out in advance by insisting on the generality criterion, then there will be many different ways in which a state can have authority, even though it falls short of the demanding criteria insisted on by many anarchists.

5. Conflicting Reasons

So far, I have focused on the questions of how authority is justified as well as how authoritative directives operate as reasons for action. Now, I ask whether authoritative directives can come into conflict with other reasons and if so how those conflicts are resolved. We are required to ask this question given that an authoritative directive is one reason among others, and may be less weighty than other conflicting reasons. And there are two different kinds of responses to that question. A value monist position on moral conflict is one that claims to have identified a general rule for their resolution. At certain moments, Simmons takes this standpoint, in particular when claiming to have identified both our moral target and the most grievous wrong, each of which is premised on the overriding importance he has given to autonomy. Yet, at various other points in Simmons’s work, it is also evident that, for him, a voluntarily incurred political obligation is simply one reason among others, and it may be defeated by conflicting reasons. If that is so, then it might be possible to develop a quite different line of argument, one that moves towards a value pluralist position on moral conflict.

Let us start with Simmons’s discussion of whether political obligation is either a moral absolute or a conclusive reason. He distinguishes between what we are “obliged” to do and what we “ought” to do. What we ought to do is, he says, what we have the “strongest reasons” for doing: it is what we ought to do “all things considered,” and this is “commonly referred to as ought’s ‘moral sense’” (Simmons, 1979, p. 9, p. 10). However, an obligation is merely one moral consideration among others and it is not an absolute reason for action. Although a political obligation is a moral

requirement, it does *not* follow “that the existence of an obligation establishes an absolute moral claim on our action, or that obligations override all other sorts of moral considerations.” This is clearly the case, given that we can be faced with conflicting obligations. Then, a decision is needed, a decision about what we ought to do “all things considered” (Simmons, 1979, p. 7, p. 10).

If a political obligation is defeated, what status does it *then* have? Simmons notes how W. D. Ross deals with this problem, namely by distinguishing “*prima facie*” from “actual” duties (to use Ross’s terminology). But Simmons is unhappy with the way Ross thinks of *prima facie* duties as “not strictly speaking duties, but things that tend to be our duties.” In Ross’s famous example, I have promised to “meet a friend at a particular time for some trivial purpose,” but cannot do so if I am to “prevent a serious accident or bring relief to the victims of one” (Ross, 2002, p. 18 n. 1). Unlike Ross, Simmons insists that “Duties which conflict or are overridden are genuine duties, not ‘tendencies to be duties.’” Hence, “even when they conflict or are overridden, duties and obligations continue to have moral weight, to be matters to consider seriously” (Simmons, 1979, p. 25). Simmons’s line of argument here has real practical significance. We may have an obligation that we ought (all things considered) not to act on. Nonetheless, Simmons concludes, the obligation does not “fade away;” it is “not simply to be forgotten. The fact that I have an obligation may call for special behavior on my part, even where I do not and ought not to discharge it” (Simmons, 1979, p. 28).

Simmons advances a number of claims regarding authoritative directives: they are not conclusive or absolute reasons for action, they may be defeated in situations of moral conflict, and when they are defeated, they do not fade away. Others writing on political obligation agree with this much.⁶ Simmons’s account is distinctive, however, because, like value pluralists, he also assumes that there is no general rule (or formula, or standard) for resolving such conflicts.⁷ As he says in his first book, “the question remains open” as to what one “ought to do” in cases of moral conflict (Simmons, 1979, p. 8). He makes the same point in his more recent work on ideal theory. Where facts are contested and claims are in conflict, as is the case concerning real-world disputes about territorial claims, then, he maintains, a “sound philosophical theory of territorial rights can at best only identify the salient moral vectors in play in such disputes and lay out the general guidelines for pursuing the best resolutions of them.” Hence, even with a “perfectly articulated and well-justified Lockean theory,” we will be faced with territorial claims that are “controversial” and require “the use of judgment” (Simmons 2016, p. 130, p. 131).

Although Simmons explicitly calls for pluralism and rejects monistic theories of authority, his commentators seem not to have noticed his argument on how reasons can be in conflict and how there is no general rule for their resolution. In the main, they have been looking elsewhere, namely at his anarchist scepticism.⁸ In any case,

⁶ For example, see Gans (1988, p. 102), Horton (2010, p. 13), and Knowles (2010, pp. 15–16).

⁷ See Berlin (2004, pp. 172–173). Other defences of value pluralism can be found in Fives (2021, 2022).

⁸ For analysis, and critique, of Simmons’s anarchist scepticism, see Copp (1999), Gans (1988, p. 99), Horton (2010, pp. 131–133, p. 194), Nine (2019, pp. 310–311), Raz (1985, p. 139), Waldron (1993, p. 29), and Walker (1988, p. 208).

Simmons himself is far from consistent on this issue. Indeed, at some points, he appears willing to accept that there is a general rule for the resolution of conflicts. This involves placing some reasons in a hierarchical order, where one reason or type of reason always defeats another reason or type of reason, whether because the former is on a higher level or because it is always weightier.

For a start, Simmons does not reject out of hand the idea of a hierarchical ordering of reasons. This is what Rawls claims to do when giving “lexical priority” to what he says is the first principle of justice: as a result, we are entitled to begin implementing his second principle only if doing so does not violate or restrict the first principle (Rawls, 1971, p. 42). Simmons’s conclusion is that it “is not yet clear [...] that such a defense of priority rules must fail” (Simmons, 2010, p. 28). In fact, Simmons provides what amounts to his own priority rule. It is one according to which our *moral target* is a society based on the principle of respect for autonomy, a society where authority is voluntarily incurred. In these moments, he gives priority to one consideration for the resolution of moral conflicts: i.e., respect for autonomy. Indeed, this is how he characterises Locke’s approach to moral conflict. For Locke, according to Simmons, we are to scrupulously follow our moral rules, except when they conflict, and then “conflicts are to be resolved by direct appeal to the fundamental law” (Simmons, 1992, p. 51). Simmons’s approach seems to be much the same, except that, for him, we resolve conflicts by appeal to the requirement to respect autonomy.

Therefore, at times, Simmons claims to have identified a general rule for resolving moral conflicts. At other moments, as we have seen, he is dismissive of such a possibility. As he sometimes makes clear, the mere fact that we have an obligation to ϕ does not entail that we ought, all things considered, to ϕ . If that is the case, we cannot assume that a legitimate authoritative directive (even one that is voluntarily incurred) is the weightiest or most important consideration. Not only that, he also says that the issue of authority and its legitimacy is *not* the most urgent question in politics: it “is not really at the center of the most important problems in political philosophy” (Simmons, 1979, p. 200). Elsewhere, he points out that other considerations can be weightier than the requirement to respect autonomy. That is why illegitimate coercion is not always so great a wrong as to “justify risking the widespread misery and upheaval” likely to follow from our efforts to have it removed (Simmons, 2005, p. 192; see also 1993, p. 267). His general theory rests on a Lockean commitment to the moral principle of respect for autonomy, where wrongful coercion is the most grievous wrong. And yet, at various points, he concedes that wrongful coercion is not the worst that can happen. If that is so, this throws into doubt the basic assumption of his philosophical anarchism: i.e., that respect for autonomy is our fundamental value.

His commentators seem not to have noticed this line of argument, as I said, and this is true even of those who are aware that he accepts plural grounds of political obligation. For example, Jonathan Wolff notes that Simmons’s approach “may yield conflicting duties,” but concludes that this “remains to be seen,” and Wolff does not himself examine Simmons’s view on the matter.⁹ In contrast, for others, like

⁹ See Wolff (1995, p. 13, p. 24). For a quite different interpretation of Simmons’s approach to plural grounds, see Gans (1988, p. 98) and Klosko (2004, p. 801).

Kevin Walton, Simmons “seems to doubt the authenticity” of conflicts between moral norms, because “he invokes a (yet-to-be-identified) standard in terms of which ostensibly different aspects of morality might be ‘balanced’ or ‘weighed’” (Walton, 2013, p. 4). Of course, there is some justification for Walton’s interpretation of Simmons’s work, given that, as we have seen, Simmons claims to have identified our *moral target* and our *most grievous wrong*. However, Walton bases his argument on an interpretation of what Simmons says in the essay “Philosophical Anarchism.” But nowhere in that essay does Simmons suggest that political theory has identified (or soon will identify) a *standard* for weighing moral claims. He emphasises instead that obligations (and rights, and duties, and even prudential reasons) are “inconclusive,” and their “finality or imperativeness” is “very much a function of the context within which the rights or obligations are exercised” (Simmons, 1996b, p. 26).

6. Justice as a Reason for Action

For value pluralism, as we have seen, there is no general rule for the resolution of moral conflicts. Even a legitimate authoritative directive might be defeated by conflicting reasons. The question remains: what kind of reasons can defeat an authoritative directive? And are there some reasons that could never play that role? We ask this question in part because authoritative directives are not only content-independent reasons. They are also exclusionary reasons.

In Raz’s terms, an authoritative directive is both a “reason [...] to φ and also a second-order reason for not acting on (all or some) reasons for not φ -ing” (Raz, 2009b, p. 18; see also 2006, p. 1022). When we are obliged to φ , this does not exclude all conflicting reasons, but only the ones that were meant to be considered (or weighed) before issuing the directive. Raz also takes a distinctive position on the resolution of moral conflicts. Authoritative directives can be defeated, but only, Raz insists, by reasons not excluded in the first place (Raz, 2009a, p. 64). To take one example, my voluntarily incurred obligations to obey the rules of the road may be overridden in an unforeseen emergency, such as a natural disaster, where, for example, traffic lights no longer work. The advent of the disaster provides a reason for action, and as a reason it is not excluded by the rule in question.

Is it possible to take a different approach to how authoritative directives are defeated? Is it possible for authoritative directives to be defeated by *any* weightier reason, including those that *were* excluded? This is the case if value pluralists are correct, and there is no general rule for the resolution of moral conflicts. For example, if we have voluntarily incurred obligations to an unjust regime, this means we are obligated regardless of whether it is just: the latter is an excluded reason. We may nonetheless conclude that, in a specific circumstance, our obligation is outweighed, and defeated, by the severity of the regime’s injustice. As we shall see, we can develop this line of thought from Simmons’s work because of its value pluralism; whereas Rawls’s work, because of its hostility to value pluralism, is simply antithetical.

Can there be any real conflict between justice and legitimate authority? Rawls’s position is that we can have political obligations (or “duties”) only towards just regimes. As justice is, for Rawls, not only a sufficient but also a necessary criterion of legitimacy, we could never incur obligations to an unjust regime. This argument

relies on an analogy between promises and political obligations. Rawls says that, just as “extorted promises are void *ab initio*,” “unjust arrangements are themselves a kind of extortion, even violence, and consent to them does not bind” (Rawls, 1971, p. 343). Simmons, in response, rejects the analogy, saying that Rawls fails to appreciate the possibility of freely consenting to an unjust regime: “Extorted promises fail to bind because they are not made voluntarily in the appropriate sense,” Simmons says, “but the injustice of an institution need not affect the voluntariness of one’s consent to it.” In fact, “we can sometimes succeed in obligating ourselves” to unjust forms of government, that is, if we have voluntarily undertaken that obligation (Simmons, 1979, p. 78). That can leave us caught on the horns of a dilemma. We must then decide whether “the harm done by supporting an unjust institution and our duty to fight injustice outweigh any obligation we may have to respect its authority (derived from our consent to it),” and, for Simmons, this is “a matter for decision in individual cases” (Simmons, 1979, pp. 78–79).

We may have obligations to an unjust regime not only as a result of our deliberate consent, however, but also, Simmons says, because of mere voluntary undertakings.¹⁰ Simmons asks whether we can ever be bound by debts of gratitude to “unjust or tyrannical governments.” The possibility seems objectionable, he says “only if we believe that obligations cannot be overridden, or that our political obligations are the only moral considerations relevant to how we ought to act in matters political” (Simmons, 1979, p. 184). In fact, despite “being bound to a government by a debt of gratitude [...] [t]here may be countervailing obligations or duties which outweigh that debt; and the injustice or cruelty of a bad government’s policies will certainly provide strong reasons for opposing it” (Simmons, 1979, p. 184). Our political obligation (in this case, one of gratitude) is one moral demand, and it is something that can come into conflict with other demands (here, justice), and there is no general rule establishing which will “outweigh” the other; it is a matter for decision in individual cases.

Simmons’s argument here is that if we do have a political obligation to obey the law in an unjust regime, this entails an obligation to obey a particular (unjust) law because it is the law. It is a content-independent reason. Simmons also accepts that such an obligation is an exclusionary reason for action (Simmons, 2016, p. 13). Raz says that authoritative directives can never be defeated by any of the reasons they exclude. Simmons’s argument about the conflict between obligation and justice suggests otherwise. The point I am making here does not simply repeat the following two claims already discussed: namely, that legitimacy is one thing and justification another; and that there are plural grounds of authority. Rather, it is that, for Simmons, we may be duty bound to obey a regime regardless of its injustice, and yet, at the same time, the injustice of the regime can outweigh that obligation, and that there is no general rule for deciding how we should act.

In situations where we have voluntarily bound ourselves to an unjust regime, what reasons for action do we have? Yes, our voluntary acts have rendered us obligated, and

¹⁰ For example, we can have obligations of fair play to do our part in a cooperative scheme even when the scheme itself is unjust, including when it allocates us “tiny, unfair shares” and in that way “mistreats” us: see Simmons (1979, p. 113).

hence the rules of the regime are content-independent and exclusionary reasons for us. Whether the regime is unjust is an excluded reason. Nonetheless, the injustice of the regime may be so great that it outweighs and defeats our obligations to obey. Such a conclusion is very important. It is clearly incompatible with a voluntarist insistence that respect for autonomy is our moral target. And, what we have seen is that it is Simmons's sensitivity to moral conflict that is responsible for this development. It is explained by the fact that, for Simmons, there is no general rule for the resolution of moral conflicts, including the rule that authoritative directives cannot be defeated by the reasons they exclude.

7. Conclusion

Whether we are duty bound to obey the law, and if so for what reasons, are questions we ask in substantive, evaluative philosophy. In this article, I have approached these questions by focusing on how best to understand reasons and rationality, and in particular by examining Simmons's pluralist approach to reasons and rationality. Sensitivity to the diversity of reasons shows that the grounds of legitimate authority are plural, and include distributive justice, and that people can be bound to authority in different ways. Also, sensitivity to the possibility of unresolved conflict shows how a voluntarily incurred authoritative directive can be defeated by the reasons it excludes, as can happen when we are duty bound to an unjust regime.

A pluralist approach to reasons and rationality is, therefore, the starting point from which we can begin to sketch a pluralist substantive philosophy of authority. I have only offered a sketch, or outline, of what that theory would look like. As part of that sketch, I have argued that distributive justice is sufficient for legitimacy. It is important that this not be confused with the Rawlsian argument. For pluralists, justice is simply one consideration among others: it is not necessary for legitimacy. And justice will not always trump other considerations. Indeed, the pluralist position sketched here is incompatible with all versions of monism, whether voluntarist or Rawlsian. If anarchist scepticism is unjustified, so too is any presumption in favour of conservatism. This is because the grounds of authority are plural, and authority itself is the locus of ongoing moral conflict.

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