

Political Ethics and Community Membership

International law permits the creation of new states only when they emerge as genuine political communities. Such communities are ‘genuine’ because they are capable of instantiating certain important ethical values and ‘political’ because those values relate to the importance of individual political activity. What is more, no new state can emerge unless the *manner* of its creation demonstrates appropriate respect for the value of politics as a distinct domain of ethical behaviour. Taken together, these claims provide the core thesis of this book: that the law of state creation is concerned with political community and that properly explicating this law requires paying political ethics due attention. In this chapter, I begin outlining the relevant ethical considerations. My focus shall be upon the normative foundations of political community, understood through the lens of membership. By understanding what it means to belong to a political community – and why this belonging forms such an important part of human life – we can better grasp why international law makes the observable emergence of such communities a necessary condition for state creation.

To begin, a brief word on the meaning of ‘ethics’ and ‘politics’. By ethics, I mean issues pertaining to how we should live our lives: what makes for a successful life and one that is ‘lived well’.¹ I presume that issues of this kind have a certain objectivity to them, in that there is more to living a good life than believing oneself to have done so, and that we are capable of being mistaken, both individually and on a societal level, about what ‘living well’ really means.² This is not to suggest that there is only one way of succeeding in these respects. Holding ethical truths to be independent of our beliefs about them is not to deny that there are many different ways of responding to the challenge of our existence. It does however commit us to believing that it is possible for

¹ Ronald Dworkin, *Justice for Hedgehogs* (Belknap Press 2011) 13–15, 197–198.

² Matthew Kramer, *Objectivity and the Rule of Law* (Cambridge University Press 2007) 4.

us to make ethical mistakes: that choosing to live one way rather than another might diminish the overall success of our lives, or lead to them being less meaningfully lived, when considered in the round. This ethical perspective, which will no doubt strike some as controversial, trades on the intuition, noted by Dworkin, that each human life truly matters, not just *to* those living them but *as such*, and that a life wasted provides a genuine and universal reason for regret.³

At bottom, my ethical claim in this chapter is as follows. Political communities matter because politics, understood as a characteristic kind of human activity, provides important opportunities for us to lead successful and meaningful lives. Unlike many accounts of politics and its connection to the related ideas of ‘publicity’ and ‘society’, my account does not demarcate either a logical or sociological category of human action.⁴ Instead, it concerns politics as a distinct and important domain of morally salient behaviour. In what follows, I use ‘morality’ to denote the genuine normative reasons we each have for behaving in particular ways *vis-à-vis* other people. International law, I as alluded to in the Introduction, should be considered a domain of morality insofar as it provides a distinct set of genuine reasons for state representatives (and other international legal actors) to behave in particular ways towards others. Like ethics, morality possesses a certain objectivity: we can be mistaken about what we owe to others and we can, in a number of intelligible ways, act *wrongly* in relation to them. As such, politics – understood as its own moral domain – relates to the genuine reasons each of us have to behave in particular ways towards our compatriots: those individuals with whom we share a political community and who, along with ourselves, constitute that community in the way that this chapter describes. The law of state creation, as I argue in later chapters, both responds to and respects the ethical importance of these distinctly political obligations. It makes the existence of a physical and juridical space within which politics can take place a necessary condition for state creation and only bestows that status upon entities that emerge in a manner consistent with respect for the ethical value of politics.

As a result of how I conceptualise politics, some things that are commonly considered ‘political’ fall outside my characterisation in a manner that might feel counter-intuitive to some readers. For instance, Carl von Clausewitz’s

³ Dworkin (n 1) 205–206.

⁴ Compare, for example: Hannah Arendt, *The Human Condition*, 2nd edition (University of Chicago Press 1998) 22–78; with Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Thomas Burger (trans.) (Polity Press 1989) 57–88; and Max Weber, ‘Politics as a Vocation’ in H. H. Gerth and C. Wright Mills (eds.), *From Max Weber: Essays in Sociology* (Routledge 1991) 77–128. See also: Carl Schmitt, *The Concept of the Political*, George Schwab (trans.) (University of Chicago Press 1996).

famous claim that ‘War is the continuation of politics with other means’ is contrary to that characterisation, to which large-scale organised violence and domination are anathema.⁵ Similarly, the use of ‘political’ as a pejorative to connote calculated or power-hungry behaviour is not engaged with. By excluding such usage, I do not seek to police the way in which the word ‘politics’ is used, nor do I pretend towards any kind of necessary truth about our shared concept(s) of politics, more broadly speaking. My aim is more discrete: to describe a unique and important domain of morally salient human behaviour and to demonstrate how the law of state creation, properly understood, both responds to and is informed by its ethical importance.

This chapter begins that argument by examining political membership as a source of moral obligation and investigating the ways in which obligations of this kind create distinct ethical opportunities. First, it argues for two moral duties that each of us have to participate in political activity. Second, it claims that these duties not only reflect important reasons we have for ‘doing politics’ but also demarcate the membership of our political communities. These arguments – constructed simultaneously – provide ‘political community’ with a moral core around which its ethical elements coalesce. Finally, this chapter sets out these ethical elements, which take the form of several distinct opportunities that become available when we belong to communities constituted by the two moral duties I advance. As noted above, it is these claims about the ethical importance of political communities that provide the ultimate basis for the account of international law forwarded by this book.

1.1 NON-VOLUNTARY MEMBERSHIP

I argue that the moral obligations providing the normative core of political community are: (i) our collective duty to avoid endemic conflict within our communities by supporting appropriate governance institutions and (ii) our remedial duties to promote autonomy and equality within those communities. They correspond to two conditions for political membership, which I shall call the ‘residence’ and ‘beneficiary’ conditions. Together, they yield the following proposition:

Non-Voluntary Membership: any person (P) is a member of a given political community (C), where: (1) P habitually resides in the geographical area in relation to which C exists; and/or (2) P routinely benefits from the coercion of other people by the government of C.

⁵ Carl von Clausewitz, *On War*, Michael Howard and Peter Paret (eds.) (Princeton University Press 1984) 87.

The residence condition corresponds to our collective duty to avoid endemic conflict, whilst the beneficiary condition corresponds to our remedial duties to promote autonomy and equality. Both of these membership conditions, and the moral duties that explain their normative significance, are presented in Section 1.2 through discussion of what I call ‘the hazards of living together’ and ‘the hazards of being governed’.⁶

Sections 1.3 and 1.4 explain the first ethical opportunity enabled by membership within the political communities that these two duties ground. This is the chance to behave ‘reasonably’ in relation to our moral obligations, which is presented as one dimension of living what I call a ‘meaningful’ life. Section 1.5 responds to two objections that these moral and ethical claims might face. Moving on, Sections 1.6 and 1.7 set out the second ethical opportunity that political membership enables: the chance to lead an ‘authentic’ life, which forms the second dimension of living meaningfully. Turning from ethical meaningfulness to ethical success, Section 1.8 contemplates the value of individual political achievements as part of an overall successful life, whilst Section 1.9 canvasses the instrumental value of political ‘products’ as logistical and cultural prerequisites for such lives. Taken together, these considerations support my larger claim that political communities are ethically beneficial and that international law both recognises and protects that benefit by making political community both a necessary condition for the emergence of legal statehood and the normative foundation for the procedural principles that the law of state creation imposes.

1.2 DUTIES OF PARTICIPATION AND POLITICAL MEMBERSHIP

This section argues that there are at least two distinctly political moral duties. These duties are ‘special’ in that they are owed only to compatriots,⁷ and ‘modest’ in that, rather than existing only within perfectly just or wholly legitimate communities, they pertain in a world ‘settled by historical chance and the actual course of events’.⁸ The first is the collective duty that geographically proximate individuals share to uphold civil peace within the territorial boundaries established by the governance institutions to which they are subject.

⁶ Elements of this argument, including the principle of *Non-Voluntary Membership*, appeared in: Alex Green, ‘Three Models of Political Membership: Delineating “The People in Question”’ (2021) 41(2) *Oxford Journal of Legal Studies* 565.

⁷ Christopher Wellman, ‘Friends, Compatriots, and Special Political Obligations’ (2001) 29(2) *Political Theory* 217.

⁸ Jürgen Habermas, *Inclusion of the Other: Studies in Political Theory* (Polity Press 1998) 116.

The second is the duty that each individual has to contribute their fair share towards advancing the autonomy and equality of their compatriots.

Both duties are essentially duties to participate in that they require individuals to engage in particular kinds of political activity. The arguments supporting them also entail that we belong to a distinct political community when: (i) we inhabit the land upon which it exists, so that we habitually live alongside the population of that place and/or (ii) we benefit from the coercive rule of its government, where that use of coercion violates the autonomy and equality of others. These membership conditions and their attendant political obligations arise from two characteristic moral hazards created by the current human condition: (i) the fact that we must live together and (ii) the fact that doing so peaceably usually requires the creation of coercive institutions.

1.2.1 *The Hazards of Living Together*

The ‘residence condition’ of political membership, which views habitual residence within a particular territory as sufficient for membership within the political community that territory demarcates, builds upon an argument in the liberal tradition. In brief, that argument holds geographically proximate individuals to possess a collective duty to avoid lapsing into endemic conflict by supporting institutions that are conducive to civil peace.

It begins with three, partly empirical, premises. The first is that failures of coordination and collaboration amongst people making incompatible claims to limited resources can create endemic conflict.⁹ The second is that endemic conflict risks creating circumstances of extreme distributive injustice,¹⁰ whereby resources are: (i) allocated solely on the basis of violence; (ii) wasted due to high transaction costs; and (iii) insufficiently secure for reliable personal and collective use. The third premise is that this unjust situation is most likely to emerge where individuals are geographically proximate: people in physical isolation face few (if any) coordinative or collaborative challenges.¹¹

These premises support the following conclusions. First, because almost all individuals already live within geographically grouped social units, ‘the frequency, density, and mutual entanglement’ of potential conflict is particularly

⁹ Martin Loughlin considers this potential for conflict the conceptual core or ‘first order’ of the political (*The Idea of Public Law* (Oxford University Press 2004) 33).

¹⁰ Immanuel Kant, *The Metaphysics of Morals*, Lara Denis (ed.), Mary Gregor (trans.) (Cambridge University Press 1996) 89–90; Jeremy Waldron, ‘Special Ties and Natural Duties’ (1993) 22(1) *Philosophy & Public Affairs* 3, 14.

¹¹ Waldron (n 10) 15.

pronounced within those units.¹² Therefore, second, habitually living upon the territory of a particular community enhances the risk that an individual will contribute to conflict there. (That they may not have chosen to live within that community is irrelevant: the risk exists whether they chose to run it or not.) Third, on the plausible additional premise that we should avoid contributing to unjust states of affairs,¹³ it is thereby instrumentally important for geographically proximate collectives to prioritise relatively harmonious relations amongst themselves before turning their eyes further afield. On this account, it is the relative proximity of people that matters: living alongside each other creates the problem, so social organisation must provide the solution.

Averting endemic conflict within a particular territory characteristically requires some kind of legal order and a government capable of employing coercive power.¹⁴ Enlightenment liberal theorists, such as Kant, famously used this fact to justify moving from a 'state of nature' into a legally constituted polity.¹⁵ However, the same considerations also provide a reason to prevent the collapse of extant governmental arrangements that avoid endemic conflict,¹⁶ assuming that those arrangements are at least somewhat more just than the anarchic circumstances they forestall. This is entailed because any obligation to eliminate unjust circumstances implies (all other things being equal) an obligation to prevent their re-emergence. Governments can uphold civil peace in several ways and, in the ordinary course of events, possess the primary obligation to do so. However, individuals can also help to forestall endemic conflict by acting alone and in concert with others, typically by promoting, supporting, or at least tolerating, governance practices that prevent anarchy.¹⁷

Individuals with this capacity, and who are habitually resident within a particular territory, have a special, collective obligation to secure and uphold civil peace that runs parallel to the obligation of their government to do the same. This duty is collective in the sense that, whilst the complete set of individuals concerned are obligated to secure civil peace as a group, no one individual amongst them is bound to forestall endemic conflict alone. It is special in the sense that it pertains only amongst the habitually resident *qua*

¹² Jeremy Waldron, 'Two Concepts of Self-Determination' in Samantha Besson and John Tasioulas (eds.), *The Philosophy of International Law* (Oxford University Press 2010) 411.

¹³ John Rawls, *A Theory of Justice* (Belknap Press 1999) 115.

¹⁴ Waldron (n 12) 411.

¹⁵ Kant (n 10) 86.

¹⁶ Waldron (n 10) 15–17; Waldron (n 12) 411.

¹⁷ What this requires in terms of specific acts will depend on the circumstances. However, once our compatriots have begun this undertaking, our duty may take on an element of reciprocity. This makes fairness relevant, see: Margaret Moore, 'Is Patriotism an Associative Duty?' (2009) 13(4) *The Journal of Ethics* 383, 388–390.

community members and not also amongst ‘outsiders’. For example, the government and laws of the French Republic are primarily constituted to address the distribution of rights and duties within France and, as a result, speak directly to the maintenance of civil peace amongst those who live there. This relationship is not contingent because ‘it depends on the difference between being one of the parties in respect of whose interests...[an] institution is [sufficiently] just, and being a person who is merely capable of interfering with a [sufficiently] just institution in some way’.¹⁸ The special nature of this duty serves to pick out habitual residents as members of a territorially grounded political community on the basis of their ongoing contribution to the potential for endemic conflict within that community (‘the residence condition’ of membership).¹⁹

1.2.2 *The Hazards of Being Governed*

By throwing us together with other people, history creates moral hazards. Geographically proximate individuals share a collective duty to uphold civil peace within the territorial boundaries established by the institutions to which they are subject. When they succeed in securing the conditions that this special duty requires, that territorial unit yields a nascent political community. However, as Weber teaches us, this is typically achieved through state monopoly on coercive power,²⁰ which makes the normative profile of such communities somewhat complex.

Coercive rule is presumptively problematic because coercion presumptively violates both autonomy and equality. This is so for two reasons. First, coercion as such consists in manipulating people into pursuing ends that they would not otherwise have chosen, and so violates autonomy.²¹ Second, it also presumptively violates equality because manipulation of this kind aims at one person becoming subject to the will of another, creating a relationship of subordination. For these reasons, political communities appear morally paradoxical: characteristically, they emerge in fulfilment of one collective duty by violating other moral precepts. For such communities to be both legitimate

¹⁸ Waldron (n 10) 19.

¹⁹ Such residence need not be uninterrupted. It turns on the empirical question of where a given person lives large portions of their life. It will include those who have a habit of residing in the territory of more than one political community but not those who are merely visiting or otherwise travelling through the territory in question. This ground yields a conception of membership quite distinct from membership in a national group: our relationship with the other members of our community is one of compatriotism, not shared identity.

²⁰ Weber (n 4).

²¹ Robert Nozick, *Socratic Puzzles* (Harvard University Press 1997) 15–44.

and just, this circle must somehow be squared, presenting what I shall call the ‘autonomy and equality problems’.

Rendering coercive rule compliant with autonomy and equality is a demanding task.²² Not only must civil peace be maintained within the relevant territory but there must also be general compliance with fundamental human rights.²³ Moreover, no community could truly guarantee autonomy and equality in the face of coercive rule without governance by law and genuine democracy.²⁴ Finally, and this is perhaps the most exacting hurdle, it is difficult to see how any community could be meaningfully egalitarian or respectful of individual autonomy unless the overwhelming majority of its laws were substantively conducive to implementing those values.²⁵ Considering this, it seems likely that most political communities will fail to resolve the autonomy and equality problem conclusively, such that at least some coercive rule within them will be morally unjustified.

What is the moral position of individuals subject to coercive rule of this kind? Certainly, their governments owe them better guarantees of autonomy and equality, but what, if anything, do they owe each other? In this subsection, I suggest that such individuals have an obligation to advance both autonomy and equality within their communities and that this obligation further underwrites their community membership, forming what I shall call the ‘beneficiary condition’ (for reasons that shall become apparent).

When our governments fail to secure autonomy and equality, we should act in pursuit of these values ourselves. We have, I contend, a presumptive duty to do our fair share towards promoting autonomy and equality within our communities. There are at least two reasons for this. The first turns on the causal relationship between governments and their subjects. Not only is the need to avoid endemic conflict a possible motivation for the creation of governments but the habitual residents of a particular territory form an important resource with which governments support themselves. In this way, habitual residents as a set are often doubly causally responsible for coercive rule, in addition to being subject to it. This point should not be overstated: that I caused X, in the sense of forming part of the collectively sufficient conditions that gave rise to it, is not sufficient to say that I am morally liable for ameliorating X. Unlike the potential for injustice that we create by living in relative proximity,

²² See Chapters 6 and 7 for more detailed discussion of this issue.

²³ Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford University Press 2004) 266–267.

²⁴ That is, not just the presence of nominally democratic or representative institutions. On this point, see: Ronald Dworkin, *Freedom’s Law* (Harvard University Press 1996) 15–24.

²⁵ Charles Beitz, *Political Equality* (Princeton University Press 1989) 64.

coercive rule characteristically arises from the actions of a minority who are asymmetrically placed *vis-à-vis* the general population. In some cases, one or more individuals within the relevant government may be individually culpable for particular violations of autonomy or equality, and even where this is not so, the government itself may be culpable as a collective agent.²⁶ However, as Miller points out, the ‘causal relationship suffices to pick [us] out from the universe of others’ potentially obligated to attempt a remedy.²⁷ This is particularly important when no individual is morally culpable in their own right or the relevant government seems unwilling to take the appropriate steps. Causality picks out habitual residents as special in a relevant way.

The second reason why being governed often generates the special duty I am contemplating may seem more controversial. I argue that we have remedial reasons to promote autonomy and equality because we typically gain special benefits from the governmental coercion of those we live alongside.²⁸ These benefits extend beyond the forestalling of conflict between geographically proximate individuals: contemporary governments are more invasively coercive than simple peace-keepers. Consider the provision of public transportation, either through nationalisation or public procurement, or the provision of other utilities, such as public libraries and recreational space. Although these benefits are not primarily directed towards avoiding endemic conflict, they are funded by taxes that, at least ultimately, are collected via coercion.

Whether an individual experiences a net benefit from being governed will depend upon their circumstances. However, it seems plausible that many of us are better off under functioning governments than we would be otherwise.²⁹ This probably cannot justify very exacting political duties, such as a

²⁶ Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford University Press 2013) 153–169.

²⁷ David Miller, *National Responsibility and Global Justice* (Oxford University Press 2007) 101–102.

²⁸ This claim has some similarities to Rawls’ argument for a duty to support just institutions on the basis of fair play because of the emphasis both place upon social benefits and burdens (John Rawls, ‘Legal Obligation and the Duty of Fair Play’ in Sidney Hook (ed.), *Law and Philosophy* (New York University Press 1964) 3–18). However, it differs markedly in two respects. First, it is not primarily concerned with the *distribution* of benefits and burdens so much as with the fact that various individuals benefit from the *prima facie* wrongful burdening of others *no matter how the distribution falls*. Second, at least in the first instance, it does not provide us with duties to support (just) institutions so much as duties to promote the reform of morally problematic ones.

²⁹ Strictly speaking, the duty I outline here applies even to those who are not net beneficiaries. Since compliance with autonomy and equality can be assessed one act at a time, we can arguably gain special remedial duties from the governmental perpetration of individual coercive acts.

duty to obey the law.³⁰ It is also insufficient, taken in isolation, to resolve the autonomy and equality problems. However, precisely because of this point, it is a plausible basis for individual duties to contribute our fair share towards increasing overall compliance with autonomy and equality within our respective political communities.

To recap, coercion is presumptively wrong because it manipulates us into pursuing ends that we would not have otherwise chosen and subordinates us to those who should treat us as equals. Many people benefit from such presumptive violations of autonomy and equality within contemporary political communities. The benefits of civil peace cannot justify coercive acts that are unnecessary for the maintenance of that peace, so governance beyond that point is presumptively problematic. A solution to the autonomy and equality problem is required for the wrongfulness of coercion to be addressed. This has at least two important implications. First, governments that provide their subjects with benefits whilst *failing* in this respect are morally enjoined to remedy their failure. Second, and crucially for present purposes, if governments are either unwilling or unable to secure autonomy and equality within their communities, it falls upon those receiving the benefits of governance to do their fair share towards promoting those values. In many contemporary communities, where the benefits of governance are various and the coercive acts securing them pose the autonomy and equality problems, this will likely encompass most people who find themselves being governed.³¹

An analogy is useful to establish the plausibility of this position. The law of unjust enrichment, as developed in Anglo-American jurisprudence, supposes that we can be morally liable for gaining at the expense of another without being morally *culpable* for doing so.³² In a paradigmatic case, you are unjustly enriched at my expense when I transfer title over a sum of money to you, mistakenly believing myself to be paying off a debt.³³ There is no debt, so I am, as it were, unintentionally gifting you the money. You are clearly blameless, as the mistake was mine. However, you are nonetheless liable to pay me back an equal sum. Your duty to correct the unjust circumstances exists

³⁰ Ronald Dworkin, *Law's Empire* (Hart Publishing 1986) 194.

³¹ It also holds, albeit to a lesser degree, where governments *characteristically* uphold autonomy and equality but nonetheless violate it on occasion. This follows from our ability to assess the wrongfulness of individual actions. For more on the latter point, see Chapter 6.

³² Kit Barker, 'The Nature of Responsibility for Gain: Gain, Harm, and Keeping the Lid on Pandora's Box' in Robert Chambers, Charles Mitchell, and James Penner (eds.), *Philosophical Foundations of the Law of Unjust Enrichment* (Oxford University Press 2009) 152.

³³ Peter Birks, *Unjust Enrichment*, 2nd edition (Clarendon Press 2005) 3–19.

notwithstanding your lack of fault.³⁴ I suggest that those routinely benefiting from morally problematic coercive rule stand in a similar position: through no immediate fault of their own, they have gained at the expense of moral wrongs done to others. In circumstances where the guilty party – that is, the relevant government – is either unwilling or unable to address this, it is incumbent upon such ‘political beneficiaries’ to do what they can.³⁵ Characteristically, this will require them to put pressure on their governments via political action.

This kind of remedial duty is special, in the sense that it pertains only amongst people connected by the bonds of political community and so helps to define those bonds. It ties us to our burdened compatriots in a way that non-beneficiaries are not tied and, importantly, pertains whether or not the community-wide allocation of benefits and burdens is fair. Indeed, it bites particularly hard when that allocation is *not* fair. Finally, and most importantly for present purposes, this duty provides the second ground for political membership: we belong to a given community to the extent that we routinely benefit from the coercive activity of its government (the ‘beneficiary condition’).³⁶

1.3 MEANINGFULNESS AND PERSONAL NARRATIVES

I have argued that we owe our compatriots two special obligations. First, we have a collective duty to uphold civil peace by supporting appropriate governance institutions, so that endemic conflict does not subject us all to circumstances of extreme injustice. Second, each of us has remedial obligations to contribute towards the autonomy and equality of our compatriots wherever and whenever our governance institutions fail properly to respect those two values. These duties are first and foremost duties of participation, which require us to act politically in furtherance of their mandated ends.

This section, together with Sections 1.4, 1.6, and 1.7, argues that performing these duties via action of this kind enables us to live ‘meaningful’ lives. There are two dimensions to this. First, it allows us to act ‘reasonably’. Second, engaging in the kind of behaviour that these special duties require can constitute an ‘authentic’ means for ‘self-authorship’. Both elements relate to the ethical

³⁴ Ibid 148–150.

³⁵ Miller (n 27) 102–103, suggests this as a potential basis for ‘remedial’ obligations, although he does not make an argument for political duties along those lines.

³⁶ ‘Routine benefit’ should not be confused with ‘net benefit’. The former refers to the regularity and frequency with which the benefits of coercion accrue, not to the relative value of those benefits. The requirement of *routine* benefit captures the intuition that we cannot become members of a community simply by *visiting* the territory upon which it supervenes, even though we may very well benefit from the coercion of its population during our visit.

value of attempts: that I attempted to achieve something I believed to be good, or that I attempted to do what I considered to be right, carries a type of value that is not captured by my eventual success or failure. I discuss the value of such attempts in general terms here, set out the requirements of reasonableness in Section 1.4, and those of authentic self-authorship in Sections 1.6 and 1.7.

Ethically valuable attempts help to create something – a history or ‘personal narrative’ of our doings – in relation to which the overall meaningfulness of our lives can be judged.³⁷ When we act, politically or otherwise, our actions imply particular attitudes. Whether we play games, till fields, or write poetry, our actions express an endorsement of the permissibility, importance, or necessity of what we undertake. This endorsement is not always conscious or intentional. We often give such things no thought at all. However, it is always latent. While we have the capacity for moral and ethical judgement, we cannot avoid this implicit endorsement. It is part of being a self-aware moral agent.³⁸ As time passes, we accrue a history of action and inaction, each item of which may instantiate or abrogate meaningfulness and success. Our characters may be transient, changing throughout our lives. Our history is transitive and attaches to us no matter how we have changed. This is captured most evocatively by Arendt:

In acting and speaking, men show who they are... This disclosure of “who” in contradistinction to “what” somebody is – his qualities, gifts, talents, and shortcomings, which he may display or hide – is implicit in everything somebody says and does. It can be hidden only in complete silence and perfect passivity...³⁹

As my discussion of reasonableness and authentic self-authorship will exemplify, each of us is uniquely placed to determine the meaningfulness catalogued by our own personal narratives. Just as I cannot make your actions authentic or reasonable, neither can you render mine so. Therefore, insofar as our personal narratives matter objectively, each of us has *ethical* reasons to instantiate as much meaningfulness within them as we can.

1.4 REASONABLENESS

Living meaningfully requires that we avoid behaving selfishly or myopically, such that we lack reasonableness. For instance, if I ignore my obligations to my family because they hamper my success as an academic lawyer, I may succeed

³⁷ Dworkin calls this the ‘performance value’ of our lives: (n 1) 197–198.

³⁸ *Ibid* 241–247.

³⁹ Hannah Arendt, *The Human Condition*, 2nd edition (University of Chicago Press 1998) 179.

in authentic self-authorship (see below), but I will nonetheless have exhibited unreasonable ambivalence towards those obligations. Ethically speaking, this diminishes the value of my attempts because they necessarily partake of my failure to address the *moral* challenge set by the circumstances of my existence. This is not to say that reasonableness (and thereby meaningfulness) requires us to pursue only that which is actually right or good. A failure to behave reasonably in relation to one's family is not a failure to identify an appropriate personal goal. Instead, that failure consists in not recognising that there are elements of living meaningfully that one has no choice but to accept. I owe my family a number of moral obligations, and I live a less meaningful life to the extent that I do not recognise this and respond appropriately. This does not mean that I must pursue my goals in a perfectly moral fashion. However, it does require that I attempt to meet the moral obligations that I actually possess.

As mentioned above, the existence of a moral duty is an objective matter: whether or not I believe myself to have familial obligations is distinct from whether or not I actually have them. Reasonableness is sensitive to this objectivity. It requires that, whilst we may have an imperfect understanding of the *content* of our moral obligations, we nonetheless acknowledge and respond to their *existence* by attempting to comply with them to the best of our ability.⁴⁰ I do not always behave unreasonably by failing to discharge my duty, say, to my family, even though I will behave wrongly by doing so. However, I will lack reasonableness to the extent that I fail to understand or acknowledge that I have obligations of this kind or if, having acknowledged them, I am indifferent to what they require.

Reasonableness is a scalar property. For instance, an inchoate belief that we should behave 'appropriately' towards strangers falls within the bounds of reasonableness, even if it is *less* reasonable – by virtue of being less accurate – than believing in a duty to prevent strangers from coming to harm when the cost to ourselves is low.⁴¹ This connection between reasonableness and moral accuracy shows why being reasonable always requires more than honest belief. I may genuinely believe that I have no obligations to those with whom I lack a personal relationship. However, this belief would be unreasonable insofar as it is unresponsive to the existence of the obligations that I in fact

⁴⁰ Whilst similar to the conception of reasonableness advanced by Thomas Scanlon (in particular, see: *What We Owe Each Other* (Belknap Press 1998) 33), mine is normatively thinner. Scanlon believes that judgements of reasonableness not only 'presupposes a certain body of information and a certain range of reasons which are taken to be relevant' but also include 'what these reasons, properly understood, in fact support' (ibid 192).

⁴¹ I assume such a duty, see: Peter Singer, 'Famine, Affluence, and Morality' (1972) 1(1) *Philosophy & Public Affairs* 229.

possess. Summarising these observations, we can say that reasonableness turns on: (i) the degree of correspondence between what I should do and how I in fact behave and (ii) the conscientiousness with which I attempt to render my pursuit of personal projects consistent with what I believe my obligations to be. My life as a whole has been lived reasonably to the extent that my personal narrative has instantiated these two elements.

For reasonableness to pertain in relation to any single action, both elements must be present to some extent. Consider someone who incorrectly denies the existence of an entire ‘domain’ of morally important activity, not out of ignorance or indifference, but after diligent reflection.⁴² The two moral duties that I argued we owe to our compatriots are distinct from those that we owe within our inter-personal relationships⁴³ and those that we owe to all other moral subjects. If I am right about the existence and content of those duties, then whether or not we have lived reasonably is partly dependent upon how we have engaged in politics. However, we can imagine an attenuated sort of egoist who, after philosophically informed, sustained, and conscientious reflection, comes to believe that no political obligations exist. Instead, they hold that we only owe obligations to those we care about on a personal level.⁴⁴ Assuming that this sort of person lives in accordance with these beliefs, can we really describe them as unreasonable? Notwithstanding the fact that they may have agonised over the notion of political obligation, I believe that we can. Lives that deny the importance of politics can be authentic (see below) and praiseworthy to that extent. But denying the existence of all political obligations is ethically hazardous. By acting on the assumption that we owe *something* to those within our political communities, the most we risk is trying and failing to live justly. However, by acting on the denial that there is anything to owe, we risk failing to try at all. Our attenuated egoist therefore faces an ethical tragedy: authenticity requires them to risk behaving unreasonably, whilst hedging their bets would result in an inauthentic life.

This assumes the truth of my previous claims: if we owe nothing to our compatriots, then it is impossible to act unreasonably in relation to them, and the meaningfulness of the egoist’s personal narrative will not suffer. As will become

⁴² A ‘domain’, in this sense, is an area of activity that can be provisionally demarcated in terms of the kinds of moral reason that characteristically apply to us when we engage in it. Politics is one such domain, promising is another.

⁴³ Such relationships include associations of friendship, family, and romantic attachment but also promissory commitments, other voluntary associations, and assumptions of responsibility.

⁴⁴ This is a particularly extreme articulation of what Thomas Nagel calls the ‘personal standpoint’, by virtue of which something matters (only) because it matters *to someone* (*Equality and Partiality* (Oxford University Press 1995) 11–18).

apparent, because it is partially hostage to moral truth, reasonableness is more demanding than authenticity. But this is appropriate. Within the relatively minimal constraints described in Section 1.7, we should be free to make judgements about what is worth pursuing in life. Being ethically free in this way is entailed by the importance of us authoring our own personal narratives.⁴⁵ However, part of the challenge of living meaningfully is doing so alongside others who are ethically enjoined to do the same. What we owe *them* should not depend solely on what we believe to be important, whether we believe it authentically or otherwise.⁴⁶ Our duty to make our personal narratives authentic, which comes from our unique capacity to determine the authenticity of our own actions, is insufficient to determine the relation in which we stand to the lives of others. Morality requires that we do what is right, not simply what seems right to us. However, if living meaningfully required perfectly moral action, we would all be doomed to ethical failure. Our ethical obligation to act reasonably bridges this gap between morality and ethics. It allows us to succeed ethically whilst failing morally, yet nonetheless remains sensitive to the fact that the morality of our actions is not exhausted by the authenticity of our attempts.

Assuming that I am correct about the duties we owe to our compatriots, we can exhibit reasonableness when we act politically. For instance, whether or not a particular tax or disability welfare regime is appropriate concerns distributive justice. Questions of distributive justice are paradigmatic of political morality, addressing whether governance is sufficiently egalitarian. If you support a libertarian scheme, whilst I prefer something based on the Rawlsian difference principle,⁴⁷ we are disagreeing over a moral issue of political scope. This means that if we pursue our convictions through individual or collective participation, we are making attempts towards meeting our moral obligations and, because such attempts exhibit reasonableness, we will both have succeeded ethically to at least some extent.⁴⁸

⁴⁵ Dworkin (n 1) 210–213.

⁴⁶ Nagel (n 44) 15–16.

⁴⁷ John Rawls, *Political Liberalism* (Columbia University Press 1993) 5–6.

⁴⁸ Consider the Jordanian uprisings beginning in January 2011, which targeted, amongst other things, a perceived democratic deficit in Jordan's constitutional monarchy. Those protesting pushed for greater legitimacy within their political community, exhibiting reasonableness in so doing. This sort of effort is the most visible way to meet our ethical duties through political action: placing popular pressure on government through collective demonstration. Voting (where it is available to us) is another means of doing so, as is individual action taken outside electoral contexts, such as writing to, or otherwise petitioning, government on matters of public interest. For an interesting report on this, see: Andrew Spath, 'Change Without Revolution: Jordan's Missed Opportunity?' *New Middle East*, 2011: <http://new-middle-east.blogspot.co.uk/2011/04/change-without-revolution-jordans.html> (last accessed 2 October 2023).

Conversely, the capacity to act reasonably in politics brings with it an ethical hazard. If we owe political obligations, then, under normal circumstances, our lives will lack a degree of meaningfulness unless we engage in at least *some* reasonable political action. This is not an ‘all or nothing’ issue: because the meaningfulness of a life turns on how much meaningful action it contains, the overall meaningfulness of a personal narrative is a scalar property. However, all other things being equal, our ethical duties to engage in political action cannot be avoided without some degree of failure on our part. This matters because a failure to behave reasonably in relation to a morally important domain of activity is always significant; an individual’s personal narrative must be judged holistically.

1.5 TWO OBJECTIONS

Some might find my suggestions problematic. In particular, they may take issue with my second justification for our individual, remedial duties to promote the autonomy and equality of our compatriots. The benefits bestowed upon us by governments are often unsolicited and might have been rejected by some people if opt-outs had been offered.⁴⁹ Given this possibility, why should private individuals gain *any* obligations from receiving the benefits of governmental coercion? Whilst it might seem appealing, this objection risks begging the question: it implicitly assumes that all political obligations are basically voluntary, which my argument explicitly denies.⁵⁰ However, what if we modify the objection? Our governments owe us special duties because they coerce us. These include duties to secure civil peace, as well as to render any further uses of coercion compatible with the autonomy and equality of all. Given this, is it not unnecessary and, in any event, overly burdensome for private individuals to have special moral duties to their compatriots? Framed in this manner, the objection can be levelled at both the duties that I claim we owe to our compatriots, as well as at the ethical requirements of reasonableness I argue to follow from them.

The high degree of responsibility that attaches to governments, and even the relatively greater logistical potency they possess, does not entail that supplementing their activity will never be morally required. Government officials, like any other human agent, can be unwilling or unable to comply with

⁴⁹ Robert Nozick, *Anarchy, State and Utopia* (Basic Books 1974) 90–95; John Simmons, *Moral Principles and Political Obligations* (Princeton University Press 1979) 129.

⁵⁰ Samuel Scheffler, *Boundaries and Allegiances, Problems of Justice and Responsibility in Liberal Thought* (Oxford University Press 2001) 71–72.

their obligations. Given the importance of promoting civil peace, autonomy, and equality, it seems unacceptable to let this lie: there should be some person or group with 'secondary responsibility' for promoting these ends, should governments fail.⁵¹ In this connection, the scope of the duties I have proposed is crucial. Morally, they are quite modest: we are enjoined only to do our *fair share* towards promoting and/or supporting civil peace, autonomy, and equality. Their ethical corollaries are more modest still: we need only make reasonable attempts towards fulfilling these moral obligations. What is more, the application of such principles will depend upon the circumstances in particular political communities, such as the distribution of resources amongst their members, the structure of their governance institutions, and the uses to which governmental coercion is typically put. The more impotent an individual finds themselves through circumstances beyond their control, the less these duties will demand from them. Seen in this light, they are far less demanding than many other moral and ethical obligations we might be thought to hold.

Given the relatively modest nature of these duties and the importance of civil peace, autonomy, and equality, in what sense might the former be too burdensome? I anticipate two concerns. First, none of the arguments advanced above demonstrate that 'ordinary' members of political communities are individually culpable for the harm caused by endemic conflict or coercion: are special duties like those contemplated too burdensome without culpability of this kind? Second, do the moral duties I have identified place too much strain upon individual resources, even though we are only enjoined to do our fair share?

1.5.1 Remedial Duties without Personal Culpability

Taking the first concern, our contribution to the potential for endemic violence in a particular place does not entail that we will each be individually culpable, not to mention culpable to the same degree, should it actually emerge. Some of us may be individually culpable and some not, or else the nature of our collective failure might be so complex that no individual can be deemed personally culpable. What is more, a purely causal contribution to the existence of morally problematic coercion is typically insufficient to make us morally culpable for it. Similarly, insofar as I am an innocent beneficiary of governmental coercion, I am not distinctively to blame for any consequent

⁵¹ I take the language of primary and secondary responsibility from: Leif Wenar, 'Responsibility and Severe Poverty' in Thomas Pogge(ed.), *Freedom from Poverty as a Human Right* (Oxford University Press 2007) 264.

violations of autonomy and equality. We may feel uncomfortable conceding the existence of moral duties to engage politically in the face of this.

Nonetheless, it is generally accepted in both political theory and legal practice that we can have special obligations without having committed a wrong. This is so even when, to reference the earlier version of this objection, we have not consented to those obligations falling upon us. Most of us believe that we have obligations to friends and family that are non-voluntary and do not arise in response to individual wrongdoing. If these intuitions are not enough, consider once again the analogy drawn above between our remedial duties to engage in political action on the one hand and the law of unjust enrichment on the other. Briefly considering what justifies this analogous area of law will help establish the presumptive plausibility of non-voluntary duties that can arise without fault: if we can do so, then the above-noted ‘culpability objection’ will seem less serious.

There are a number of potential explanations for why restitution is morally required once an unjust enrichment occurs. It does not matter for present purposes which provides the best available reconstruction of Anglo-American legal practice. Our present task, which is to consider whether remedial obligations to act politically can be justified by a non-consensual, non-fault-based principle, can be served by examining the plausibility of a ‘corrective justice’ approach. Consider once more the paradigmatic case of unjust enrichment: the mistaken payment of a non-existent debt. According to Barker and Weinrib, we must give any mistakenly transferred money back out of respect for the pre-existing property right of the original owner.⁵² For ease of analysis, assume that this prior right was morally justified, *inter alia*, by the importance of that owner’s capacity to use the object of their right (the money) to further whatever morally permissible ends they chose. The original owner mistakenly used their money in pursuit of a non-existent end (discharge of the imagined debt), and so their action did not match their intentions. Although their mistaken payment legally transfers ownership to the enrichee, this is so for instrumental reasons, such as certainty and speed of commerce at the societal level. The duty of restitution exists ‘precisely to recognize and reverse the moral problems which this necessary instrumentalism creates’.⁵³ The law as a whole thereby protects the original owner’s prior legal right whilst facilitating other goods. The enrichee’s duty of restitution exists because they are the person with whom the legal entitlement to the

⁵² Barker (n 32) 169; Ernest Weinrib, *The Idea of Private Law* (Oxford University Press 2012) 140–141; Ernest Weinrib, ‘Restoring Restitution’ (2005) 91(3) *Virginia Law Review* 861, 868–870.

⁵³ Barker (n 32) 169.

object of the original owner's *moral* right now rests. No moral wrongdoing or voluntary action on the enricher's part was necessary to put them in that position. Nonetheless, it would be impossible for them to respect the original owner's prior legal (and present moral) entitlement to the money without performing restitution. Replacing it with as much as and good from another source – say, a state fund – would not reflect the enricher's status as the beneficiary of the original owner's loss. This cogent and, I suggest, normatively attractive account of unjust enrichment demonstrates the moral sense in our possessing certain remedial duties even without personal culpability. That is enough to render the remedial duties that motivate the beneficiary condition of political membership plausible and provide an intuitive reason to reject the culpability objection raised above.

1.5.2 *Modest Political Burdens*

This sketched explanation of unjust enrichment not only demonstrates the plausibility of duties other than those acquired by wrongdoing or volition. It also serves as a useful comparison when asking whether we would be overburdened by a duty to do our fair share of political action. This addresses the second objection contemplated above: does political action require so much from us that we will be unjustifiably restricted from engaging in other ethically valuable activity? The quick answer would be that 'our *fair* share' necessarily implies not. However, this misconstrues the concern, which is that any such duty – even the relatively minimal one contemplated above – would be too burdensome to place upon private individuals.

The duty of restitution we acquire when in receipt of an unjust enrichment is both a primary moral duty and a legal liability. By contrast, our duties to engage in political action are secondary duties, characteristically without legal liability.⁵⁴ Both points of difference are significant. All other things being equal, it is more burdensome to have a primary duty than a secondary one. Whether they are individuals or groups, the holders of primary duties are uniquely responsible for ensuring that performance of their duty is achieved. Only if they fail or refuse to act do the secondary duties of others become engaged. When benefiting from an unjust enrichment, your private law duty of restitution is one that you alone owe. The judicial organs that guarantee your restitution only become obligated in the event of your failure to act.

⁵⁴ In some jurisdictions, this is not always so. In Australia, for example, voting (which is one archetypal mode of political action) is compulsory and to that extent more burdensome. For more on the various modes of political action available in contemporary states, see Chapter 2.

In the case of secondary duties, however, the individual or group with the primary duty does not lose their obligations just because their failure to act has obligated someone else. Indeed, secondarily obligated individuals may gain rights against the primary duty-holder. In the political context, a government employing coercion should *always* safeguard the autonomy and equality of those it governs, including those who have remedial duties to contribute fairly towards the correction of its wrongful behaviour. However, when that government fails to secure these values, it comes under additional duties to the remedially responsible: to the extent that the duty to correct any unjustified coercion is a burden to such people, governments have an additional reason to amend their ways. Returning to the comparison, if a primary duty to reverse an unjust enrichment can be a justifiable burden, then a secondary duty to address violations of autonomy and equality would also seem justifiable.

The distinction between moral and legal liability is even more important. Section 1.5.1 contemplated the *moral* liability of an unjustly enriched individual, which in the private law context required restitution. However, private law also establishes the judicial enforceability of that duty. Since this form of liability is coercively enforceable, it is far more burdensome than 'mere' moral liability. Moral duties to act politically are characteristically not legally enforceable. To the extent that enforceable private law duties are not unjustifiably burdensome, we are provided with an additional reason to believe that non-enforceable political duties are not overly burdensome either.

Perhaps neither the form nor magnitude of the duty matters so much as its pervasiveness. The private law duty to reverse unjustified gains only applies when we are in receipt of such gains. Conversely, a duty to engage politically is, *ex hypothesi*, a demand that we almost always face. For instance, if: (i) most modern governments routinely violate autonomy and equality and (ii) most of us routinely benefit from their use of coercion, then most of us will have a standing duty to act politically. Whilst the resource drain of an individual instance of political action is not too great, an ongoing duty might be, cumulatively speaking. To answer this concern, we should remember that our proposed moral duties are to do our fair share towards promoting and/or supporting civil peace, autonomy, and equality through political action, whilst our supervening ethical duties require only reasonable attempts towards securing those ends.

The burden established by the moral element of this standard is minimal. Duties to *promote* and *support* civil peace, autonomy, and equality do not entail a duty to *secure* those ends. Governments have the latter duty, but individuals characteristically do not. This mirrors the different reasons at play. Governments have extensive duties by virtue of undertaking systematic

coercion. Individuals do not. Their obligations are, as I have argued, based on their collective creation of the risks of endemic conflict, their causal relation to coercive governance, and their status as routine beneficiaries of coercion. Taken individually, these are weaker grounds for moral liability than attempting to coerce others. Concordantly, the duties that arise as a result of these grounds are less invasive. Private individuals do not fail morally when they are unable to bring about the required changes in their communities. Instead, failure occurs when they do not take the actions that should be expected of them, given their particular circumstances. For instance, a people suddenly facing violent oppression from a military coup will likely have a duty to offer some resistance.⁵⁵ However, they are not required to take *whatever* steps would be necessary to remove their oppressors.

The exact moral requirements that political membership places upon each individual are not as important for present purposes as the resultant ethical ones: individuals will succeed ethically when they respond reasonably to the fact that *some* manner of political action is required. That requirement may be burdensome to some extent, but it is hardly excessive, given the characteristic importance of the goals to be served. Furthermore, since the moral duty to be political requires only an appropriate *contribution*, no private individual needs to take up their burdens alone. Given the size of contemporary communities, most will share their duties to act with sizeable multitudes. The benefits of collective activity often outweigh the cost borne by each participant. Consider the January 2017 ‘Women’s March’, which responded to the perceived chauvinism of the newly inaugurated President of the United States. Such mass demonstrations can have immense expressive power, whereas the cost for each participant is typically low: usually, the only thing lost is the time and expense of attending. In light of the above, the case for the overwhelming burdensomeness of a duty to act politically is rather weak.

1.6 AUTHENTICITY AND SELF-AUTHORSHIP

The second dimension of living a meaningful life that political membership enables concerns the ‘authenticity’ expressed by our attempts to live according to personal judgements of value. To use Dworkin’s example, an artist who could have been admired for producing conventional work but nonetheless risks an innovative project may eventually fail. Nonetheless, they have arguably made the more meaningful choice by taking the risk: it speaks to the

⁵⁵ Candice Delmas, *A Duty to Resist: When Disobedience Should Be Uncivil* (Oxford University Press 2018).

seriousness with which they take their art and the value to be found there.⁵⁶ The same value can be found in attempts to meet the two moral duties detailed above. My efforts to create support for constitutional reform may fall on deaf ears or be successfully undermined by those with conflicting agendas. Nonetheless, the fact that I pursued what I believed to be just and fair evidences the honesty (and perhaps courage) with which I approached the issues in question. This cannot be diminished by a lack of success. To the extent that I have engaged in such attempts, I have authentically approached the challenge of my existence.

Subject to certain qualifications, authenticity cannot be negated by my being mistaken about the objective value or rightness of the goal or act I pursued. Questions of value are sometimes controversial, and living authentically requires us to pursue what we honestly believe to be worthwhile, even (or perhaps particularly) when others disagree with us. More to the point, although the value of such attempts assumes the possibility of achieving valuable ends, it is not contingent upon the objective potential for success in any particular case. Just as I might be destined to fail due to events beyond my control, so too might I be destined to fail because what I honestly believed to be worthwhile is in fact not so. It nonetheless remains that I took steps towards authoring an authentic personal narrative.

Note the distinction between authenticity and autonomy. Autonomy is best understood in terms of what might be called ‘non-domination’: it requires that we are not manipulated into pursuing ends that we would not have otherwise chosen to prioritise. This is a necessary but insufficient condition for authentic action.⁵⁷ When our autonomy is respected, we have the capacity to behave authentically, but we may still fail to do so. For instance, a young person’s parents may refrain from putting pressure upon her to choose a particular career, but that does not entail that her eventual choice will be one that conforms to her beliefs about what matters. Her choice may be made capriciously or otherwise be inconsistent with her ethical reasons to self-author.⁵⁸

1.7 TWO REQUIREMENTS OF AUTHENTICITY

There are at least two normative restrictions upon our ability to be authentic. The first is moral: we must pursue only those goals or actions that are consistent with the value of *all* individuals developing more or less authentic personal

⁵⁶ Dworkin (n 1) 199.

⁵⁷ Ibid 212.

⁵⁸ Simone de Beauvoir, *The Ethics of Ambiguity*, Bernard Frechtman (trans.) (Citadel Press 1948) 25.

narratives. Under normal circumstances, someone who seeks to destroy, dominate, or wholly exclude others from political and social life implicitly denies the value of those individuals' self-authorship. Unless there is a reason why some person or class of people do not merit self-authorship, such acts of destruction, domination, and exclusion imply a denial of self-authorship's *general* value. It is hard to imagine what such a reason could be. For instance, why should my being an agnostic, heterosexual, white, English, human male make me any more deserving of the opportunity to act authentically than other beings capable of making judgements about value?⁵⁹

Such implicit denials have an ethical impact because they necessarily qualify the authenticity of our attempts, even though they cannot completely remove that value. We can self-author as vicious or callous, and, though this may seem puzzling, there is at least some value in our doing so. Acting authentically does not mean pursuing only what is objectively good. I may honestly believe that an egotistical or malicious life is well-lived. For example, a plausible interpretation of some of Nietzsche's work suggests that he considered extreme cruelty to be consistent with greatness of character and that greatness of character was objectively worth having.⁶⁰ If I honestly act on similar beliefs, those parts of my personal narrative will track my understanding of what matters. However, imagine that this includes acts of murder. By killing others, I deny them the chance to behave authentically. By doing so without justification, I implicitly deny the value of authenticity *tout court*. By generally denying this value, I implicitly deny that my own self-authorship partakes of it: if there is no such value, it cannot be instantiated in my actions. This denial does not change the fact that the meaningfulness of my actions *does* matter: that is an objective issue. However, it does prevent my actions from fully instantiating the value of authenticity. Since I can only be fully authentic by acting consistently with the importance of my own self-authorship, any behaviour that implicitly denies the authenticity-value of my actions cannot be fully authentic.⁶¹ I may not realise that I am engaged in such a denial, but that does not matter. The confused nature of my actions itself inflicts the ethical damage: whilst still an instance of self-authorship, my behaviour is imperfectly authentic.

Like reasonableness, authenticity is, to this extent, a scalar property. Some actions can be *more* authentic than others by virtue of their content and one's

⁵⁹ Dworkin (n 1) 256–257; Nagel (n 44) 11.

⁶⁰ Friedrich Nietzsche, *Beyond Good and Evil*, R. J. Hollingdale (trans.) (Penguin Books 2003), 149, 159, 195–196, 204; Friedrich Nietzsche, *Thus Spoke Zarathustra*, Graham Parks (trans.) (Oxford University Press 2005) 10–17.

⁶¹ Dworkin (n 1) 212.

mental state whilst engaging in them. Consciously accepting the importance of self-authorship will no doubt enhance the authenticity of what I do, but it is neither necessary nor sufficient. I can behave with authenticity even if I have never thought about my actions in those terms. I may have an intuition that certain of my decisions ‘really matter’, or I may simply behave as though they do without really thinking about it at all.

The second restriction upon our ability to act authentically is that we must honestly (in the absence of psychosis) believe that our attempts are feasible. Because the notion of valuable attempts necessarily assumes the possibility of valuable ends, I cannot make a meaningful attempt where it seems to me that there is virtually no chance of success. A life dedicated to creating a school of magic in Scotland would be wasted, due (in part) to the mundane nature of our universe. For slightly different reasons, it would waste my time to run for President of the United States of America, given that I was born on a small island off the South coast of England. Admittedly, one can self-author as a fool or failure. There may even be some value in it, albeit of a different kind. If they are not caused by delusions, the actions of a committed Don Quixote – charging at imaginary giants – may instantiate *autonomous* living. Such a life may even be fun. Nonetheless, the knowing pursuit of a pointless enterprise cannot count as an authentic attempt towards something of value.⁶² It makes a mockery of the ethical reasons we each have for constructing our personal narratives.

These are unusual cases. We should neither overestimate nor misconstrue feasibility. Even seemingly hopeless attempts can have authenticity. When Rosa Parks and those who emulated her refused to yield to racist domination, even the slimmest chance of making a difference was sufficient to render their attempts authentic. What is more, we can deliberately attempt something in the hopes that our anticipated failure will have an expressive impact, or else that we will achieve something other than our stated goals. Many of those involved in the Occupy Movement must have known or suspected that fundamentally altering global financialism was a hopeless aim. Nonetheless, by publicly railing against it, they contributed to a transnational political ethos that may well have informed the more stringent financial regulation that we now enjoy.⁶³ The strategy of asking for more than we expect is a well-known

⁶² de Beauvoir (n 58) 28.

⁶³ See, for example: Financial Services and Markets Act 2012 (UK); Council Regulation (EU) 575/2013 Capital Requirements Regulation [2013] OJ L176/1; Council Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC Text with EEA relevance [2013] OJ L176/338.

negotiation tactic, and we should not read a lack of feasibility into such political manoeuvring too readily.

1.8 THE ETHICAL VALUE OF POLITICAL SUCCESS

Both dimensions of ethical value discussed so far relate to the meaningfulness of our lives, which concerns the manner in which we choose to respond to the (moral and ethical) challenges we face. Sections 1.9 and 1.10 argue that responding to the two moral duties described in Section 1.2 can also facilitate our leading *successful* lives. Rather than focusing on the value of our attempts, this turns on the extent to which we manage to behave rightly and achieve ends that are actually good. To this extent, success should be understood in objective terms: did we really do something of value, rather than just believing that we did so?⁶⁴

My claim in this section is that our political actions can make our lives more successful by counting as personal achievements. Relatively few of us will ever filibuster a senate or spearhead a civil society campaign, but it would be myopic to assume that personal political achievement is the exclusive province of statesmen.⁶⁵ Contributing to the creation or realisation of valuable movements and institutions can give meaning to human existence, even if the role that we each play is as one amongst many. For every Martin Luther King Jr., there are multitudes who contribute in less visible ways, without which power and influence would be impossible. Hume's emphasis on the passive power held by the governed is apposite here, as is Lenin's observation that politics 'begins where masses are'.⁶⁶ The vast majority of us provide small, commonplace contributions to the creation and augmentation of our political communities, whether through the opinions we express in political discussion or by the claims we make upon governance institutions. The engaged citizen who takes part in public debate (whether through writing, speech, or physical demonstration), who votes wherever she is able, and who makes good use of her legal rights is the paradigm example of this in the Western world, but even she represents just a few modes of action amongst many.

The degree to which we dedicate ourselves to political projects will vary from person to person. However, when we contribute to a political success, we can consider ourselves to have accomplished something valuable, even

⁶⁴ Dworkin (n 1) 197–198.

⁶⁵ Richard Evans, *In Defence of History* (Granta Books 1997) 161–190; E. H. Carr, *What Is History?* (Penguin Books 1987) 31–55.

⁶⁶ Hume, *Essays, Moral, Political, and Literary*, I.IV.1; Vladimir Ilich Lenin, *Lenin, Selected Works: Volume 7* (Progress Publishers 1961) 295.

if the exact nature of that value will depend upon the nature of the success. For instance, the negotiations that led to the fall of apartheid in South Africa between 1990 and 1993 were an important episode in that state's political development. However, they took place only because of a more diffuse political background in which numerous individuals played a part. Early strikes, boycotts, and organised acts of civil disobedience were conducted by South Africans under the leadership of the African National Congress and its 1952 Defiance Campaign. Around 8,000 people were arrested during this movement for their attempts to resist the enforcement of racial segregation.⁶⁷ Each of those individuals can count the fall of apartheid as a success in which they played an active role, notwithstanding the fact that their individual causal contribution might be difficult to discern. The point is not that each individual was a necessary actor without which the world would not have changed. It is enough that each person contributed to a collection of actions that were cumulatively sufficient for that outcome to have taken place.

1.9 THE INSTRUMENTAL ETHICAL VALUE OF POLITICAL PRODUCTS

There are many ways we can strive for personal success, lots of which have little to do with politics. Some of us endeavour to understand the nature of our universe, whilst others focus on the value to be found in inter-personal relationships. Others still turn their attention to music, whilst many make raising children their focus. However, political endeavours differ from these examples in that without at least some people succeeding in them, other avenues of human activity become much harder to pursue. This is the final way in which political membership creates ethical opportunities: our political successes can facilitate further personal success by providing independently valuable things in which we can partake. To take just one example, cultural and social institutions that enrich our lives, such as public displays of sporting prowess or musical skill, are generated as much by political activity as by the individual skill of the performers. Any concert, public competition, or play relies upon a complex background of logistical collaboration, social toleration, and economic facilitation to provide the physical and social space within which it takes place. It is through political activity that these are provided: activity that extends beyond the efforts of particularly involved individuals, into that undertaken by society at large.

⁶⁷ 'The Defiance Campaign', *South Africa: Overcoming Apartheid Building Democracy*: <http://overcomingapartheid.msu.edu/multimedia.php?id=65-259-9> (last accessed 2 October 2023).

This instrumental value of politics is complex and often difficult to trace causally. Individual political acts that seem insignificant on their own can combine with others to have far-reaching effects. The clearest example is voting. Individual votes have an extremely limited causal impact but, in aggregate, can change the social landscape of entire continents. Consider the 2016 referendum in the United Kingdom, in which a majority voted to leave the European Union, thereby altering the dynamic of international relations within Europe. Chapter 2 outlines a number of ways in which politics outside the ballot box can have this aggregate effect, most of which are more causally complex still. But, however they emerge, the consequences of politics can provide us with ethical opportunities that we would otherwise lack. So many individual undertakings rely upon a background of cooperation and mutual tolerance that most personal projects are only possible by virtue of collective action somewhere along the line.⁶⁸ I may consider the life of an artist or priest to be particularly worthwhile, but unless my political community provides logistical, social, and economic support for art and religion, my desire to engage in those things will be frustrated.⁶⁹ This is not to say that a successful life would be impossible without the support of political activity. But without it, the modes of potential success open to us would be greatly diminished.

1.10 CONCLUSION

It may seem odd for a book concerned with state creation to begin with such an in-depth discussion of individual flourishing. Ethics – even political ethics – can seem very far removed from the substantive principles of international law. This book, however, is motivated by the conviction that this is not so: despite its somewhat unsalutary history, international law – and particularly those aspects that deal with state creation – is deeply intertwined with the value of individual human lives. My ultimate claim, that state creation, as regulated by international law, is grounded upon an appreciation for the value of politics, possesses much of its explanatory power only because of the links that exist between law and ethics.

With that connection in mind, this chapter argued for a particular understanding of what it means to belong to a political community, based upon

⁶⁸ Plato, 'Crito' in Harold Tarrant (ed., trans.) and Hugh Tredennick (trans.), *The Last Days of Socrates* (Penguin Classics 2003) 90–91, 50d.

⁶⁹ Support can come by way of permission to engage in the relevant activity, even though this liberty is otherwise unsupported. The mere interaction of different lifestyles and modes of existence necessarily has an economic and social effect upon a political community, such that tolerance of any activity will come with some cost, even if that cost seems negligible.

two special kinds of moral duty that we owe to our compatriots. These are: (i) our collective duty to avoid endemic conflict within our communities by supporting appropriate governance institutions and (ii) our remedial duties to promote autonomy and equality within those communities. My arguments in support of these two political obligations also established the following principle of community membership:

Non-Voluntary Membership: any person (P) is a member of a given political community (C), where: (1) P habitually resides in the geographical area in relation to which C exists; and/or (2) P routinely benefits from the coercion of other people by the government of C.

Political communities constituted on this basis characteristically create four kinds of ethical opportunity. The first two relate to the meaningfulness of our lives, concerning the extent to which we live reasonably and authentically self-author. The second two concern whether our lives have been successful in an objective sense: performing our duties can lead to personal successes and also create opportunities for further ethically valuable activity that would otherwise not be available to us. This, I suggest, already tells us a great deal about the ethical value of contemporary states.

These four kinds of ethical opportunity can sometimes be realised through single actions. Most obviously, many authentic political acts will also be reasonable. For instance, when someone lends their support to a national labour movement, they authentically pursue their own conception of what matters and act reasonably in relation to their political obligations. However, both authenticity and reasonableness assume the value of ethical successes, as set out in Sections 1.9 and 1.10: valuable attempts are possible only where valuable ends are feasible. Similarly, many personal political successes will be such as to provide further opportunities for ethically valuable activity, both for the successful individual and for others. This being so, it is possible for a single political action to be doubly meaningful, a personal success and a condition for further ethical successes.

Nonetheless, the distinctions drawn in this chapter matter. The moral duties we owe to our compatriots define the ethical core of political community, presenting us with challenges that we cannot avoid without diminishing the overall meaningfulness of our lives. However, we can authentically supererogate these duties. This happens when we contribute *more* than our fair share to the promotion of civil peace, autonomy, and equality, or when we push for public goods beyond these three things. Such actions meet the standard of reasonableness, but – particularly where supererogation is intentional – they must be understood as authentic attempts at going *beyond* the call of duty. Examples

include acts by which people risk (or voluntarily end) their own lives, such as the individuals involved in the 1981 Irish hunger strike or the unidentified rebel who stood before a column of tanks in Beijing, following the violent suppression of the 1989 Tiananmen Square protests.⁷⁰ Supererogation is significant because it exemplifies the distinctiveness of authentic acts as engagements with a particular community.

Taken together, the arguments of this chapter present the core of 'political community' as a moral and ethical concept, forming the foundation upon which my account of state creation shall be built. Chapter 2 elaborates further upon politics as a distinct domain of human activity and discusses the role that state institutions play in its realisation.

⁷⁰ An interesting collection of journalistic perspectives on this 'Tank Man' can be found in: Patrick Witty, 'Behind the Scenes: Tank Man of Tiananmen', *The New York Times*, 3 June 2009: <http://lens.blogs.nytimes.com/2009/06/03/behind-the-scenes-tank-man-of-tiananmen/> (last accessed 2 October 2023).