



Why Do We Obey the Law?

An Evaluation of the Theory of Gratitude

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Discussion on the theory of law will often consider the legitimacy of the concept of political obligation. This concerns the moral duty of citizens to obey the law of the state in which they dwell. In his publications, ADM Walker refers to the gratitude-based theory of obligation, which simply put, suggests that citizens obey the law out of a sense of gratitude that is generated from the benefits that the state provides them. This article will examine Walker's theory, as well as touching on an earlier edition of the argument provided by Socrates, before ultimately concluding that the theory of gratitude cannot pose as a successful model for political obligation. This conclusion is drawn from Walker's poor understanding of the concept of gratitude, and the instability of basing political obligation on an emotion. Instead, this article determines that the theory of fair play, which has been popularised by HLA Hart, is a model that is better suited to the concept of political obligation.

Recent conversation on the subject of political obligation is relatively sparse, and the topic has almost become 'unfashionable' to discuss, at least in contrast to the historical debates that occurred during the writings of Hobbes and Bentham.¹ This is possibly because it has become more common to assume political obligation exists under a complex smorgasbord of sociological reasons, and it is unnatural to pinpoint one particular reason as to why there is a *prima facie* obligation to follow the law, if there is one at all.

ADM Walker suggests, however, that the specific reason why people obey the law is in the configuration of gratitude; arguing that political obligation originates from a sense of gratitude that citizens feel in response to the benefits incurred from the state. This is an extension of, at least from Walker's point of view, a debt of gratitude that some individual feels towards another from whom they benefit.

This article shall examine the theory of gratitude ('the theory' hereafter) in four parts. Part I will examine a history of gratitude, briefly critiquing Socrates' theory of gratitude, before focusing primarily on Walker's variation of the argument. Part II will consider a common criticism of the theory which suggests that gratitude can only be owed to individuals, and therefore cannot be owed to the state. Despite this article's predominant aim to highlight the flaws in gratitude, it will conclude that this is not a sufficient argument to dispense of the theory,

before moving on to discuss more censorious issues of the theory in Parts III and IV. The former will look at the practicality of political obligation relying on gratitude, and whether gratitude is too unstable to provide a basis for political obligation. Finally, Part IV will investigate whether the relationship between the state and its citizens is one which presupposes gratitude, suggesting that the relationship does not satisfy the basic criteria for gratitude, and that the state's relationship with its citizens is closer to a *quid pro quo* agreement. This article will also examine the theory in light of the theory of fair play; an argument which is far better suited to political obligation.

Part I

One of the earliest prototypes of the theory appears to have been developed in Plato's *Crito*, where Socrates is in prison, awaiting execution when his companion, Crito, tries to convince him to escape into a life of exile. Crito presents a number of arguments in order to convince Socrates to escape, all of which are countered by Socrates' theory that people living in a particular province have entered into an implicit social contract with the state, whereby they choose to give up certain freedoms and obey the law in exchange for guaranteed rights. He argues that the relationship between citizens and the state is analogous with the relationship between a child and their parents; 'since you were brought into the world and nurtured and educated by us, can you deny in the first

¹ John Plamenatz, *Consent, Freedom and Political Obligation* (2nd edn, OUP 1968) 163.

place that you are our child and slave'.² Here, Socrates argues that in both situations, the dominant party provides benefits to the subordinate party, and hence the subordinate party is then obliged to obey the dominant party as a result of the gratitude that they feel from receiving the benefits. Socrates asserts that a child feels grateful to their parent for nurturing and loving them, and the idea of the child disobeying or 'striking' their parent is contrary to the structure of the relationship. Accordingly, if citizens were to disobey the laws of the state, it would be akin to a child striking their parent as this would frustrate the structure of the relationship.

This comparison, albeit ostensibly synonymous, is flawed on account of the differences between political and kindred relationships. For example, a relationship between a parent and their child is a selfless one originating from love and protection over a child that, at least implicitly, the parents have agreed to nurture. A child's love and gratitude towards their parent is a natural result of the received love and kindred circumstances. This seems to contrast the relationship between the state and its citizens. The relationship here is far less intimate. Whereas the parent/child relationship structures itself upon caring and endearment, the state/citizen relationship is rather unsolicited, and the state arguably has ulterior motives other than acting in the direct interests of its citizens.³ Subsequently, the idea of gratitude-based theory remained questionable, and any development on it had stagnated.

In the 1980s, Walker reintroduced the theory to the forefront of the political obligation debate, suggesting that previous interpretations of gratitude were hindered by a weak understanding of the theory.⁴ Walker's argument is fivefold:

- (1) a person who receives benefits from X has an obligation of gratitude not to act contrary to X's interests;
- (2) every citizen receives benefits from the state;
- (3) every citizen has an obligation not to act contrary to the state's interests;
- (4) noncompliance with the law is contrary to the state's interests;
- (5) therefore, every citizen has an obligation of gratitude to comply with the law.⁵

Walker argues that, alongside the previously poor understanding of gratitude, the argument's lack of appeal 'owes less to a sober examination of its supposed defects than to a deeper revulsion at the very idea of basing political obligation on considerations of gratitude'.⁶ Indeed, there is certainly some validity in that claim; it can be considered unfashionable for people to be enthusiastic about the state, let alone accept they have been induced

into an agreement to which they owe the state gratitude. However, it is naïve and somewhat supercilious to limit all criticisms of the argument down to this simple explanation. There are elements of this argument, as this article shall examine, that make gratitude-based theory a weaker explanation for the existence of political obligation than the argument of fair play.

Here, it is worth briefly explaining the structure of the theory of fair play, and the reason for it being so applicable to political obligation in respect to the theory of gratitude. Perhaps the most famous promotion of the theory of fair play comes from Hart's 'mutuality of restrictions',⁷ which contends that, 'when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission'.⁸ Unlike gratitude, fair play owes a duty of political obligation to one's own peers rather than to the state; everyone else is obeying the law, it would thus be unfair for me establish more rights than my peers by breaking the law. By focusing on cooperation, fair play captures the community factor that gratitude fails to satisfy. Instead, gratitude focuses on one's own individual position with the state, creating room for inconsistencies and volatility.⁹ The remainder of this article shall continue to critique Walker's theory in light of the more pertinent fair play theory to obligations as well as assessing the validity of others' criticisms towards Walker's theory.

Part II

A prominent query that arises from the theory is that, as others have raised,¹⁰ gratitude cannot be issued to an institution, but only to individuals, therefore one cannot be grateful to the state. However, this criticism can be considered somewhat short-sighted. The state does not exist simply as an entity in itself, but includes politicians, civil servants, and others who contribute to its structure. Therefore, when referring to the state, one is actually referring to the individuals that it consists of. So, where the theory argues that gratitude is owed to the state, this includes one's peers within the community.¹¹ By defining the state as such the argument that it can be awarded gratitude is made more acceptable, as demonstrated through the following examples. If Mr Pink requires heart surgery to save his life, the gratitude he feels upon his recovery will most likely be directed at the surgeons who performed the heart surgery rather than the entire hospital itself. Similarly, if Mr Orange receives a first-class degree from his university, he will be directly grateful to the individuals that taught him, rather than to the university as a whole. Now, Mr Pink and Mr Orange

² Plato, *Crito*, in *The Trial and Death of Socrates: Four Dialogues* (Courier Corporation 1992) 51.

³ A theory that is investigated further in Part IV.

⁴ WD Ross, *The Good and The Right*, John Plamentez *Consent, Freedom and Obligation*; A. John Simmons *Moral Principles and Political Obligations*, MBE. Smith *Is There a Prima Facie Obligation to Obey the Law?*

⁵ ADM Walker, 'Political Obligation and the Argument from Gratitude' (1988) 17(3) *Philosophy & Public Quarterly* 191.

⁶ *ibid* 192.

⁷ HLA Hart, 'Are There Any Natural Rights?' (1955) 64(2) *The Philosophical Review* 175.

⁸ *ibid*.

⁹ Inconsistencies will be examined further in Part III, which discusses the instability of gratitude as a basis for political obligation.

¹⁰ A John Simmons, *Moral Principles and Political Obligations* (Princeton University Press 1981) 187.

¹¹ A.D.M. Walker (n 5) 196.

may display their gratitude by, for example, granting a large sum of money to the respective institutions to whom they are grateful, but this does not mean that they are grateful to the *entire* institution, but rather they have simply shown their appreciation by rewarding the institution that employs the individuals they feel grateful towards. Nonetheless, following this, it would be bizarre to suggest that you cannot be grateful to a group of individuals, such as the team of surgeons who operated on Mr Pink, or that Mr Orange cannot say that he is grateful to 'his university' when he is referring to the *individuals* who helped him.

However, this may not be the most conventional argument. Card argues that 'gratitude is not always to someone, but it is always for something'.¹² She uses the example of being grateful to the weather for not disrupting her picnic.¹³ These are rational observations, but ones that could be dispensed with, in light of acknowledging that such declarations of thanks are not actually expressions of gratitude. A key feature of gratitude is the recipient's readiness to return kindness to the benefactor. Under Card's argument, this would be an issue, as how can one return kindness to something that is inhuman, or incapable of appreciating the kindness that is bestowed upon them.¹⁴ This suggests that the sentiment Card is expressing when she refers to being thankful to the weather is something other than gratitude; something of less value. What Card's argument fails to clarify is that one can appreciate good fortune without being under a duty of gratitude. Applying this to her example regarding being grateful to the weather; she is not under a duty of gratitude to the weather, but merely appreciates that fortune has benefited her. This adequately dismisses Card's suggestion that gratitude need not always be attributed to an individual(s).

To clarify the point of this section, gratitude-based theory maintains a strength. Despite the argument that gratitude can only be attributed to an individual or a group of individuals, one can still be grateful towards the state, as they are grateful towards the individuals that the state consists of. Using this definition of the state, there is no reasonable objection to the idea that gratitude can be owed to the state. Consequently, we can comfortably this argument against the theory under our broader interpretation of the word 'state'. Therefore, although Walker argues from a different perspective in his support of gratitude-based theory, we come to the same conclusion in our acceptance of the possibility of gratitude being owed to the state. This exhibits a strength in Walker's argument towards gratitude that critics of his theory, such as Simmons,¹⁵ have failed to appreciate.

Despite this article hitherto being cautiously magnanimous towards gratitude, Parts III and IV shall suggest that it is impractical to structure an argument of political obligation solely on the notion of gratitude, and

that, when the state grants benefits to its citizens, it does not actually qualify for gratitude.

Part III

The idea of a political obligation based on gratitude is inherently weak as the argument suggests that one should behave in accordance with the law upon the basis of a feeling; gratitude. This seems illogical from all angles; how can one be expected to rely upon an expression that they may not feel, but rather are expected to feel? If the basis for political obligation is subjective, and therefore temperamental, this allows too much leeway for one to question whether they do actually owe an obligation to obey the law. This creates an issue when one tries to argue that a widespread political obligation is owed on the basis that *everyone* feels grateful to the state. Clearly, Walker's theory does not account for people that actually do not feel grateful to the state, either justifiably or not. An example to illustrate this point further follows; if someone belongs to a particular race or creed that has been neglected, or even directly exploited by the government,¹⁶ does this mean that they have no obligation to obey the law? In order to feel grateful, must I not first be gratified?¹⁷

An argument to counter this could exist in the form of an objective test; people *should* be grateful to the state. Therefore, a political obligation through gratitude exists. Nevertheless, this counterclaim is deficient for a number of reasons. Primarily, it is unsatisfactory because it provides a basis for political obligation that is an *assumed* emotion; one that may not actually exist. This contradicts the fundamental principle of gratitude, as this would mean that a political obligation based upon gratitude does not actually require one to feel grateful towards the state, which seems nonsensical. This counterclaim also fails to dispense of the example of when people are actively exploited by the state. Acceptance of such a counterclaim would minimise any complaints assigned to the state by victims of such exploitation, to the extent that it effectively silences the individuals under this umbrella of an assumed emotion; they should feel grateful to the state because they receive some benefits from the state. This is similar to a school bully arguing that despite beating you up earlier that day, I lent you some money for lunch last week. Therefore, you should continue to be grateful to me. This does not seem right, and underpins a fundamental flaw in the structure of the theory.

A proponent of gratitude may rely upon Walker's condition that we should 'be mindful of our benefactor's interests...and give them special weight in our deliberations',¹⁸ in defence of such a response. However, as Klosko points out, this seems to be met if we simply consider such interests, and decide not to obey the law anyway, as the law negatively affects our own interests.¹⁹ This is surely too unstable for political

¹² Claudia Card, 'Gratitude and Obligation' (1988) 25(2) American Philosophical Quarterly 115.

¹³ *ibid.*

¹⁴ Cards example also fails to appreciate the importance of *benevolence*, a detail that shall be examined further in Part IV.

¹⁵ A John Simmons (n 10) 187.

¹⁶ There are numerous historical examples from nations all around the world.

¹⁷ Claudia Card (n 12) 117.

¹⁸ ADM Walker (n 5) 203.

¹⁹ George Klosko, 'Political Obligation and Gratitude' (1989) 18(4) Philosophy and Public Affairs 352.

obligation to rely upon, as it leaves too much opportunity to abandon obeying the law upon consideration of one's own interests.

Fair play theory does not suffer from such a defect, as it does not structure its argument upon such a subjective criterion as an individual's emotion. Instead, it focuses upon a general moral principle of fairness among cooperation. Given that the obligation of political obedience is owed to the community, it is clear that if - like in the earlier example - a law is discriminatory, offensive or is in some way disruptive to the goodwill of the society, it is conceivable that the law can be overlooked, as the citizens have a duty to each other and not the state. It would be justifiable for one to express that 'I have an obligation to do X, someone has a right to ask me to, but I now see that I ought not to do it',²⁰ on account of not performing the obligation being the lesser of two evils, when the alternative is exploitative to one's peers. Therefore, if the state is actively exploiting its citizens, fair play allows citizens to disobey the state, as the political obligation is owed to one's community, whereas gratitude - which owes its obligation towards the state - would not permit such disobedience, making fair play the more desirable and morally sustainable structure of political obligation.

Part IV

Gratitude-based theory also falls short when you examine the intention behind an act that causes one to feel grateful towards the actor. This can be explained clearly within the following example. If one were to help another by way of a selfless and spontaneous gesture of goodwill, the recipient of said gesture would rightly find themselves under a sense of gratitude towards the philanthropist. However, consider a second scenario, where the philanthropist were to help another person out, but instead of the gesture being selfless and spontaneous, the philanthropist instead structured the benefit in order to generate a debt of gratitude within the recipient, so the philanthropist could later request some form of reciprocation. In the second scenario, should the recipient feel truly grateful towards the philanthropist? Surely the recipient should not feel grateful, as, unlike the first scenario, the philanthropist has used their helpful act as a means to fuel their own self-interests, rather than to simply help the recipient. Instead, the philanthropist creates a *quid pro quo* agreement, where the initial gesture in awarding the benefit to the recipient was done with reciprocation in mind. This suggests that in order for gratitude to be owed, certain criteria must be satisfied within the transaction. This section is going to argue that the state does not meet such criteria to be awarded with gratitude.

As hinted upon in the previous examples, Berger appreciates that gratitude is a response to another's benevolence,²¹ rather than purely a response to the actions that benefit the recipient. As with the first scenario, the recipient was grateful to the philanthropist for helping them, because the philanthropist did so out of the goodness of their character; they performed the beneficial act 'in order to help'.²² This raises an important distinction to remember when discussing gratitude, in that gratitude is not owed in response to an act that benefits another, but rather to the benevolence behind it. Following from this point, if the philanthropist were to perform an act, and it were unknown to them the benefits it would provide the recipient, or if the act were to be performed with some ulterior motives in mind, this does not incur a duty of gratitude.²³

In addition, Simmons argues that the philanthropist must entail 'some special effort or sacrifice' when providing the benefit.²⁴ This is less important than benevolence, as situations could arise where a debt of gratitude incurs without such sacrifice.²⁵ However, in order for a *strong* debt of gratitude to arise, both these provisions should appear. If a man, who himself does not have a lot of money, donates to a homeless man selflessly, the debt of gratitude the homeless man owes the poor philanthropist upon full acknowledgement of the circumstances is greater than if the philanthropist were wealthy, because a greater sacrifice was made when providing the homeless man with the benefit.

A sympathiser with Walker's theory may argue that the state awards its citizens these benefits to provide them with a better life, and therefore provides the benefits entirely selflessly, in accordance with the necessity of benevolence. However, even if we were to accept this *arguendo*, the debt of gratitude would not be strong as it was not performed to any real sacrifice of the state, making it even more unstable as a theory of political obligation. A more iconoclastic approach to the state appears to have more substance upon investigation. If one argues that it is out of gratitude that we reciprocate, it implies that the means by which we gratify the philanthropist has been our decision, chosen through our own free will.²⁶ In reference to political obligation, this seems incorrect. It is not the citizen's decision to obey the law, it is obligatory, the state having already decided upon granting its citizens benefits that it wants reciprocation in the shape of political obligation. The state expects obedience; furthermore, they demand it! This seems remarkably similar to the second scenario, of a *quid pro quo* agreement between the state and its citizens. The state has not only considered reciprocation when providing its citizens with benefits, but it has already decided what form of reciprocation it demands; political obligation. Therefore, the state cannot be accredited with gratitude as it lacks benevolence in providing benefits, and even if

²⁰ HLA Hart (n 7) 186.

²¹ Fred Berger, 'Gratitude' (1975) 85(4) Ethics 298.

²² *ibid* 299.

²³ Draw this back to Cards argument referenced in Part II (*ibid* n 12) about being grateful to the weather; she cannot be grateful to the weather as the weather was not aware that it was benefiting her, therefore the benefit cannot have been performed benevolently. We

are also now fully able to appreciate why only individuals can receive gratitude; only individuals can perform something benevolently.

²⁴ A John Simmons (n 10) 170.

²⁵ See Walker's example of the experienced swimmer saving the drowning man in *ibid* n 5 208.

²⁶ Immanuel Kant, *The Doctrine of Virtue: The Metaphysics of Morals* Mary J Gregor trans., (Harper & Row Publishers 1964) 20.

the state did qualify for gratitude *arguendo*, the debt of gratitude towards them is not particularly strong.

Fair play manages to circumvent any requirement of benevolence or sacrifice by owing a duty political obligation to the cooperating members of society, instead of arguing that the duty is owed to the state as a response of gratitude. Cooperation, as Berger correctly asserts,²⁷ is able to accommodate selfish motivation, unlike gratitude, making it more suited to argue that the relationship between the state and its citizens, and more generally the notion of political obligation, is one predominantly structured around fair play.

Conclusion

To conclude this critique of gratitude-based theory, this article shall summarise its main arguments. Firstly, this article has conceded, unlike some critics of the theory, that the state is an institution that can receive gratitude, under the definition that a state is comprised of a large number of individuals, and there is no reasonable argument that the state could not, *in theory*, be awarded gratitude under this definition. However, Walker's argument flounders due to a weak understanding of what gratitude consists of, and the instability of basing political obligation upon a temperamental emotion such as gratitude. The relationship between the state and its citizens is not one that contains benevolence, and if it were to contain benevolence *arguendo*, it does not contain a sufficient sacrifice for the debt of gratitude to be the groundwork for political obligation. Therefore, Walker's theory cannot be the means by which political obligation exists and is transcended by the much firmer argument of fair play. Fair play is a far more solid justification for political obligation as it does not require benevolence or sacrifice. Instead, it focuses upon the universal principle of fair play, as opposed to the volatile emotion of gratitude, and it argues that the duty of political obligation is owed to one's fellow citizens, rather than to the state.

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²⁷ Fred Berger (n 21) 301.