

Dear NMSU philosophers,

I must apologize for the state of this paper. I decided to engage in a radical revision/ rewrite of the paper just a few short days ago. While I'm happier with this revised version of the paper than with its more polished predecessor, it comes to you in a rather unfinished state. I considered not sending this at all, but I hope that you will be able to get a general idea of my position by reading this paper, and thus be in a better position to offer substantive objections. In this version you will find that there is not an introduction or a conclusion, and that the portion of the paper in which I respond to objections is incomplete. These sections were the least polished of all, and I think my basic idea can be gleaned without them. I hope you can look past the unpolished state of the paper to find the central thesis and arguments buried within. I look forward to any comments you may have.

-John

An Anarchist Argument for Political Obligation

The Anarchist Position

To begin, let us consider what it means to have a 'political obligation.' For purposes of this paper I will assume that X has a political obligation when the presence of the law provides X strong moral reasons to do as the law requires. Essentially, if the law is capable of creating or altering one's moral obligations in such a way that the individual must now act as the law requires, then one has a moral obligation to obey the law. I intend to leave unclear what is meant by 'strong moral reasons'. Presumably the reasons have to be strong enough that it can be said that the individual has a prima facie obligation to do as the law requires. Having a prima facie obligation could mean at least one of two things. First, we may mean that an individual has any moral reason to do as the law requires and no countervailing reasons that require to violate to the law. So, if I have a trivial moral reason to do X, and no countervailing reasons that speak against so X, then I have a prima facie obligation to do X. Alternatively, it could mean

that there must be very strong moral reasons that favor the action in order for it to be said that there is a prima facie obligation to obey the law will be a matter of indifference in this paper. Here the idea is that the moral reasons that favor doing X must cross a threshold in order to qualify as prima facie obligations. How strong a moral reason must be in order to be a prima facie obligation must be solved in another paper. I'm inclined to think that only the strong version gives us genuine prima facie obligations, but I won't attempt to argue for that here.¹

The real task in contemporary political philosophy has been to provide sufficient reasons of any sort that justify the belief that there is a moral duty to obey the law. This has proven extremely difficult. Perhaps there are no better examples of the significant challenges posed to classic theories of political obligation than **M. B. E. Smith's essay, "Is There a Prima Facie Obligation to Obey the Law"** and **A. John Simmons's *Moral Problems and Political Obligation***. As a result of their arguments many have come to conclude that we ought to adopt the **anarchist position**, the position that there is **no moral duty to obey the law**. My intention here is not to resurrect any of the classic theories of political obligation, but rather, I intend to accept the sufficiency of the arguments offered by Smith and Simmons and explore where political philosophy may go from here.

Consider the following objection, what I'll call the **naive chaos objection**: if it is true that we have no moral obligations to obey the law, then we will find that society will devolve into chaos. Without a compelling reason to do as the law requires, people may

¹ M. B. E. Smith agrees with me on this in his paper "Is There a Prima Facie Obligation to Obey the Law?" where he argues that even if there is a moral duty to obey the law, it is insignificant. We may conclude that he just doesn't think the reasons are sufficiently powerful to give us a prima facie obligation to obey the law.

act as they wish. To pretend that the law is capable of preventing theft is naive, but if one were to accept and internalize the anarchists' argument we would find that theft would become more prevalent. Those who once found themselves restrained by the law, would no longer feel this way. **If the law serves to restrain individuals, then without a moral duty to obey the law, we may fear that social harmony is the cost of adopting the anarchists' position.** In essence, the naive chaos objection represents a type of *reductio ad absurdum*. It is not a *reductio* in the sense that it attempts to show the anarchists' position is internally inconsistent. Rather, it attempt to show that accepting the anarchists' position leads to morally unacceptable results.

The anarchist assures us that their position does not entail anarchy in the negative sense. Rather, we simply find, when we adopt anarchism, that we do not have a *prima facie* obligation to obey the law. There will be reasons, even if we accept the anarchist position, that tell us to do as the law requires or at least to act in ways consistent with the law. **A. John Simmons** outlines four such reasons in the concluding remarks of his seminal book *Moral Principles and Political Obligation*.

First, Simmons argues that **we may have reason to do as the law requires** because, by doing so, we "... **support** and further **just government**, at least when this involves no great cost to ourselves..."² This may seem to be a curious argument for Simmons to make for those familiar with his work. Earlier in the book Simmons argues compellingly that a natural duty to support just institutions cannot be employed to ground a political obligation. We may fear that Simmons is being inconsistent, but I do not think he is. Presumably what Simmons has in mind is that we may have reasons to

² Simmons *Moral Principles and Political Obligation* [MPPO] p. 193

do as the law requires, when our government is reasonable just, because, by doing so, we serve to support that institution. Alternatively, when our disobedience would undermine our just government, we have some reason to do as our government requires. What I think allows Simmons to avoid inconsistency is the fact that the reasons that are generated by our duty to support a just government are exceedingly weak. So the duty is not nearly strong enough to ground a political obligation, but it may be able to give us some reason in favor of obeying.

My concern here is that when we acknowledge that these reasons are not strong reasons, we find that they will not be able to forestall the naive chaos objection. First, it remains unclear how it is that my legal disobedience, even when it is harmful to others, means that I have failed to support and further a just institution. It seems implausible to believe that the only way I can support and further a just institution is by obeying it. Indeed, I believe that Oxfam is a just institution, one that I try to provide money to regularly, thus I believe that I both support and further this institution, but I would give no credence to Oxfam should it try to tell me how to behave. Thus, it seems I can support and further just institutions without obeying those institutions. Further, I believe there will be numerous instances of harmful behavior that will not in any way compromise the integrity of the just institution itself. Should one of my neighbors shoot another, then it seems to me that a great moral harm has been inflicted on the victim, but what does not seem clear to me is that the justice of either the governments of Texas or the United States have been affected in the slightest. Perhaps the justice of these institutions will be tested in how they respond, but the act of murder itself, if not committed by a government official acting in her official capacity, does not alter the justness of the

government in the slightest. If the United States government is just, then I support it in a variety of ways: I **pay taxes**, I speak fondly of it, I celebrate Independence Day enthusiastically, and I even fly an American flag outside of my home during major holidays. **If supporting and furthering just governments requires more than this, then Simmons must explain why that is so.**

Perhaps I'm incorrect about this, and as a matter of fact, one must take seriously the rules issued by a just institution because this is integral to supporting and furthering a just government. Even if this is correct, I fear that such a reason to obey the law is too easily trumped to answer the naive chaos objection. Notice that for Simmons, we have reasons to support and further just institutions *at least when this involves no great cost to ourselves*³. Obeying laws, even the laws of just governments, often comes at great cost to ourselves. Following the laws often comes at a significant cost to our autonomy. It seems unlikely that if we must only support and further just government when doing so does not involve great cost to ourselves, then anytime the law conflicts with deeply held values or beliefs we must follow our beliefs and not the law. Of course, in a society where there are often greatly divergent values, we will often find individuals at odds with each other, and in those cases, if Simmons is right, the law does not help resolve such conflicts. Even when obeying the law does not violate our deeply held values there will be instances where obedience is quite costly. Obeying the law often is both time consuming and financially burdensome. I'm inclined to think that here, on Simmons's account, we are again permitted to violate the law. I consider intrusions on my time and my finances to be very costly to myself, and thus it seems, when the law

³ My emphasis.

requires such sacrifices I may rightfully ignore it on Simmons's account. Of course, much of this turns on what constitutes a 'great cost' to an individual. Perhaps, financial or temporal considerations will not qualify, but Simmons has not provided any guidance on the matter. Without further argument on this matter I believe we must look to Simmons other arguments to avoid the naive chaos objections.

Simmons also argues that we have reasons to do as the law says because **people develop expectations about how others will behave based upon the law, and disobedience may frustrate these plans.** However, Simmons admits that there may not be any moral duty to avoid frustrating or inconveniencing others, and for that reason this too appears to be incapable of staving off the naive chaos objection. If I have a choice between doing as I like and doing as the law requires, I have a reason to do as the law requires (I do not want to frustrate others), but it is not much of a reason. My actions frustrate the desires of others frequently and this gives me little reason, by itself, to do otherwise. I may change lanes while driving and this may frustrate someone behind me who would like to have a clear lane of traffic ahead of him, but this hardly explains why I should not change lanes. **Perhaps, at its core, the naive chaos objection asks the anarchist to explain why people are not free to act on their every desire if there is no moral duty to obey the law.** The frustration of desires or plans will be incapable of answering this question.

Simmons next two responses offer the best tools to respond to the naive chaos objection.⁴ First, Simmons argues that we will be required to do as the law requires even if we do not have a moral obligation to obey the law. For, while me may not have

⁴ See MPPO p. 194 and "The Anarchist Position" p. 276.

any political obligations, we do have moral obligations, and these moral obligations tell us to refrain from doing the very things that the law forbids. The law tells us not to steal, rape, murder, or assault others, but we have no moral obligations to obey these law as such. However, morality also tells us not to steal, rape, murder, or assault others, and we do have moral obligations to do as morality requires. **The law, on this view, turns out to be redundant. It is morality that truly guides our behavior,** it just happens to be the case that the requirements of law and morality line up in certain circumstances. I will call this response to the naive chaos objection **‘the correspondence thesis’.**

Simmons also argues that in certain circumstances the law helps us avoid acting in ways that would be inconsistent with each other, when inconsistency could be harmful.⁵ Here the law serves to coordinate our behavior, and because that coordination is morally desirable, we have reason to obey those laws. For example, the law tells us that we must drive on the right hand side of the road. On this matter morality is silent. There is nothing special about driving on one side of the road or the other. What does matter is that **citizens coordinate their behavior.** Without coordination here, great harm may result. So here, it is not the case that morality and the law correspond, but rather that, without the law to organize behavior, the well-being of the citizenry would be jeopardized.

Does the coordination and correspondence theses successfully respond to the naive chaos objection? At first glance they appear to do just that. The naive chaos objection asks the anarchist to explain how it is that we will keep order in a society if there is no moral obligation to obey the law. The anarchist responds that those things

⁵ Simmons, A. John. MPPO p. 194

that are most likely to cause chaos, like murder, theft, assault, and rape, are forbidden by morality. This is sufficient to prevent some of the most dangerous or harmful behaviors in the anarchist's society. Further, in those circumstances where morality is indifferent, e.g., whether a society drives on the left or right side of the road, the law acts to select one of those options so that we may coordinate our behavior. **By serving this coordinative function the law helps prevent some significant harms associated with social life.**

But this moves a little bit too quickly. Consider first the correspondence thesis. Here we are told that "... we often have reasons, or even duties, to do what the law requires, quite apart from it being commanded by the law."⁶ I have suggested that Simmons appears to be arguing (these points are woefully underdeveloped) that when we do as morality requires we also, by happy coincidence, will be doing as the law requires. Morality forbids murder, and so does the law. So it goes for rape, assault, and theft as well. **If a society of conscientious individuals were to accept the anarchist position would it truly be that chaos would be avoided? I think not.** This is because the correspondence thesis ignores the significant amount of disagreement that may arise among even conscientious people regarding the requirements of morality. While all the members of our society may accept the claim that murder is impermissible, they may still disagree significantly about whether or not abortion, capital punishment, the use of deadly force to protect property, or assisted suicide, to name only a few controversial topics, are violations of, or consistent with, this prohibition on murder. What the anarchist ignores is that moral principles, like those that prohibit theft, assault, murder,

⁶ Simmons, A. John. MPPO p. 194

and rape, are vague.⁷ In societies marked by pluralistic values, there may be agreement about basic moral principles, but understanding what those principles entail is often incredibly contentious. There are various ways that individuals can agree on basic moral principles, yet still disagree about those principles require.

Individuals may disagree about the scope of a principle. Here disagreement arises because there is dispute about to whom the principle applies. For example, we may all accept the moral principle that one ought to help others when it does not come at too great a moral cost. The problem of scope manifests itself in at least two different ways here. First, we must determine to whom the principle applies. While it is certainly the case that a number of principles apply universally to all moral agents, there will also be cases in which the moral principle speaks to a restricted number of agents. In the case of the principle above, the restricted class of agents are those for whom it is not too costly to lend assistance. When assistance is 'too costly' is itself unclear, and as a result there will be disagreement about which agents are addressed by the principle. The second way that the problem of scope manifests itself is in cases where we are uncertain about who the principle protects. Who are the 'others' that the principle requires us to lend assistance to? Familiar instances where we find uncertainty about who a principle protects include animals, fetuses, the environment, and future generations, but is by no means limited to these cases. That disagreement about these

⁷ It is worthwhile to note that I use the term 'vagueness' here in its most general sense. As a logical term vagueness refers to those terms or linguistic expressions that have borderline cases such that it is impossible to tell if the terms or expressions apply to those cases or not. However, I have a much less precise definition of vagueness in mind here. While I am certainly interested in situations in which there are borderline cases where we are unsure how to apply moral expressions, I am also interested in cases of ambiguity, that is when terms or expressions have more than one distinct meaning, or more general cases of uncertainty. I use vagueness here to capture all such ideas.

matters could lead to significant disharmony should be no surprise. Citizens of the United States have harmed and even killed each other over these disputes.

Ambiguities that arise with moral principles are not limited to problems of scope. Imagine a circumstance in which we accept that I am obligated to lend assistance to a specific group of individuals. **We may still disagree about what behavior is required of me to discharge this obligation.** For instance, if I have an obligation to help individuals who suffer the effects of absolute poverty, do I discharge my duty merely by giving money? How much must I give? Must I do more? We may worry that gifts of food and supplies may ultimately undermine burgeoning economies in the regions we help, and thus other gifts may be most appropriate. Here we have a problem of behavior. Again, it may be that certain moral principles make it perfectly clear what behavior must or must not be done to satisfy the demands of morality, yet all the same, many do not. Again, that disagreement here could lead to significant disharmony is not hyperbole.

Without agreement about what it is that the moral principles require of us, the anarchist's assurance that there will not be chaos is less convincing. There are various ways in which reasonable people may disagree about the moral principles that philosophical anarchists rely upon, and I have laid out only a few here. What we can see is that there is room for significant disagreement and it is not clear how the anarchist will address this disagreement. Until a compelling solution is offered, it is best to remain skeptical about the correspondence thesis ability to offer a response to the chaos objection.

The objection I raise here is simply an expansion of a very familiar objection to anarchist positions. I take the objection discussed above to be similar to John Locke's

objection to anarchism when he claimed that the state of nature was to be avoided because there was no known and settled law.⁸ The moral principles that philosophical anarchists rely upon to provide order to society are vague and open to multiple, reasonable interpretations. So, though reasonable people may agree on what moral principles we are to abide by (e.g., do not engage in assault, theft, rape or murder) we may still find that these same reasonable people disagree about what those moral principles require of them.⁹

Before moving on I would like to offer some clarification of the objection I have offered here. There are a number of meta-ethical issues lurking about here, and one may begin to suspect that my objections against philosophical anarchists indicate that I have staked a particular position on those issues. I object to anarchists that they have not explained how we will settle on a shared understanding of vague moral principles, but I have not clarified what the nature of this vagueness is. One may wonder if I believe that there are no definitive moral truths. Perhaps I am suggesting that within morality there exists a terrain that is hopelessly (necessarily?) uncharted. I do not wish to suggest any such thing. Rather, I wish to be agnostic on the issue. If moral principles are genuinely indeterminate, then the objections are that much more disturbing for anarchists. On the other hand, if moral principles do have determinate meanings, but we are merely uncertain what those meanings are, then the problem is still quite serious for anarchists. We must get along, and though we may constantly strive to come to discover what are the true, genuine interpretations of our vague moral

⁸ Locke, John. *Second Treatise of Government*. Hackett, (1980) p. 66

⁹ For an interesting discussion of this point see Gregory Kavka's "Why Even Morally Perfect People Would Need Government." *For and Against the State*. Eds. John T. Sanders & Jan Narveson, Rowman & Littlefield, 1996.

principles, we must have some rules to guide us along in the meantime. Perhaps it is most likely that we find ourselves in a situation that Gregory Kavka calls 'incomplete objectivism'. Here we find that there are some objective moral truths, but there are also some areas in which individuals have divergent views about the requirements of morality, yet none of these people have made any error.¹⁰

Regardless of how we account for the nature of moral disagreement, we must recognize that moral principles are insufficiently action guiding to prevent at least a revised form of the chaos objection from being problematic for the anarchists. We are not free to do whatever we wish, as the naive chaos objections suggests. Instead the problem is that there will be uncertainty about what is permitted in some of the most contentious forms of social contact. I am not disputing here whether a person should remove her hat when sitting at a dinner table, or something trivial of that sort. I am simply recognizing that there is significant room for reasonable disagreement about morality, and disagreement here can be extremely contentious. That a society can avoid significant social discord without a means of resolving such disagreements is unlikely.

What we find then is that the correspondence thesis is incapable of addressing the chaos objection. Finally, let us turn our attention to the coordination response. I believe this will prove much more capable of responding to the chaos objection, the cost, I believe, is that we must surrender anarchism.

¹⁰ Ibid., p. 44.

The Anarchist's Argument for Political Obligation

Let us consider the coordination response. The first thing to note is that the ability of coordination proper to prevent chaos will be limited. According to David Lewis, a coordination problem arises when, "...relative to some classification of actions, the agents have a common interest in all doing the same one of several alternative actions."¹¹ Essentially a genuine coordination problem arises when two or more agents desire to act in concert but must select among several alternatives. So, which side of the road is an ideal candidate to illustrate such a situation. We all desire to drive, but do not want to have head-on collisions with others. So, we all desire to drive on the same side of the road as everyone else, but that still means that we may all drive on the left or all drive on the right side of the road. To resolve a coordination problem we must have a salient option.¹² For Lewis salience is the option that is most conspicuous alternative among our numerous coordinating possibilities.¹³ The law, by selecting the right or the left, is the salient option and it helps us coordinate, and gets us out of the coordination problem. What is difficult, however, is to find a widespread set of laws that fit this picture. Other rules of the road, rules that help secure our safety, do not appear to be genuine instances of coordination problems, precisely because it is in the interest of some to free-ride. That is to say, some will opt to violate the convention set out by the law because their interests are best served by doing so. What is important to note about the formal account of coordination is that all agents must desire to act in concert.

¹¹ Lewis, David. *Convention: A Philosophical Study*. () p. 24

¹² Salience is by no means the only way to solve coordination problems. Indeed, Lewis's reliance on this notion of salience has come under attack. I will not wander into this debate here. It's my feeling that the arguments and concerns will translate no matter what concept we replace salience with.

¹³ Lewis, *supra* note at 11., p. 38.

When we find cases where individuals' do not have an interest in acting in concert with others, we no longer have genuine instances of coordination. Such cases appear to be widespread in legal contexts. If that's the case, the potential for coordination to avoid the chaos objection is limited.

Of course, this may be a bit more formal than Simmons wants or needs. Lewis is focused primarily in giving a game theoretic account of coordination problems. We may usefully talk of coordinating our behavior even if we do not have as formal an idea in mind as Lewis does. In fact, it would be strange if Simmons was interested in coordination proper. Coordination problems by themselves do not obviously require the intervention of the law. We have a coordination problem when two people who are talking on the phone are disconnected, they want to continue the conversation, but recognize that this won't happen if each tries to call the other back.¹⁴ While this may be a genuine coordination problem, this is a case that individuals may be left to their own devices to sort out. It seems for the law to have a role in coordination problems there must be more at stake. We may recognize that we may only achieve certain goods, if we act largely in concert with others. Thus, we accept that we ought to obey the speed limit because this makes the act of driving safer for ourselves and safer for others around us. Though it is not a pure case of coordination, the need for us to act in concert gives us strong moral reasons to do as the law requires in this case. So, even if it's not coordination, it's relevantly similar enough that it gives us moral reasons to do as the law requires.

¹⁴ I borrow this example from Lewis *ibid.*, p. 5.

If we employ a coordination-like solution to the naive chaos objection I think we're in much better position to resolve the problem. The anarchists' coordination solution will work, but we should be clear about what conditions must obtain for the solution to work. I turn now to discuss what I take those conditions to be.

First, there must be a coordination or coordination-like problem. For our purposes, we'll consider a problem to be coordination-like if there is an interest in acting in concert, yet there are multiple reasonable ways that we might do so. There is a temptation here to suggest that there must be a widespread interest in acting in concert. That a majority of the citizens must have a stake or an interest in the coordination. I think this is a mistake. It seems to me that a society may wish to coordinate behavior, though only a minority of the population will be affected by that regulation. For example, a society may wish to forbid the sale of human organs. We should recognize that this is just one way to coordinate the transfer of human organs (some societies may wish to allow the sale of body parts). I'm inclined to think it's reasonable for societies to regulate transactions of these types, even though most of us may never need or want to buy or sell an organ. States frequently regulate the behavior of small groups, and I do not wish to suggest such regulations like those will fail to be covered by the present account.

Second, the coordination must have a moral component. The interest that people have in coordinating must be a moral interest rather than merely a political or social one. We have an interest in having speed limits because without them, we may fear that our lives will be jeopardized. There may be good social reasons to have national holidays like Presidents Day--I will not try to speculate what those reasons

might be--but I don't think that they are moral reasons. I think we will only have a moral reasons to obey the law where we are doing some important bit of moral work with the law--avoiding harm for instance. Thus, we have moral reasons to obey speed limits, but may ignore laws regarding national or state holidays.

Third, the law must be the salient or conventional¹⁵ solution to coordination problems of this type. This is simply to say that the law must be recognized by the society as the appropriate arbiter of problems of this type. When there is a traffic dispute in our own society we may appeal to the courts to resolve the dispute. When students have a grade dispute they will appeal to their teachers or school administration. When there are religious disputes people will turn to their churches. I want to remain agnostic on what the appropriate domain of the state is. In some societies certain moral disputes that we may think best left to ourselves are resolved by the state. In other societies, disputes we think best resolved by the state, are resolved by the church. This is just to point out that the appropriate domain of state action is a matter for each nation to decide on its own, and I will not attempt to resolve that question here.

Finally, for the law to be a solution to a coordination-like problem the law must select one of the morally justifiable solutions to that problem. What does it mean for a law to be a 'morally justifiable solution'? I take it that for any moral principle P there will be some sub-set of interpretations R that count as minimally reasonable interpretations

¹⁵ For Lewis a convention is a solution to a coordination problem that has been established by repeated practice. So, for instance, the first time two people face a coordination problem they may settle on a salient option to resolve the coordination problem by accident or agreement. The next time they face the same coordination problem or one relevantly similar, they will settle it the same way because of precedent. Given enough past instances where the coordination problem is solved in this way, a convention arises. See Lewis, *ibid.*, p. 36-42.

of that principle.¹⁶ To give a full account of what will count as a ‘reasonable interpretation’ is beyond my means for this brief paper. However, I would like to offer a suggestion of what I have in mind. Take the moral principle: Do not kill healthy, innocent individuals intentionally. While there is much here that is vague I would like to focus on the term ‘individuals.’ There is a great deal of room for reasonable people to disagree about what counts as an individual in the moral sense being used here. Some may think it refers to humans immediately after conception, some may think that it refers to humans only after the second trimester, and others may think it only refers to humans several months after birth. When a human becomes a moral person is a difficult question, and it seems that there is good reason why it is a contentious issue: the answers are not at all clear. Disagreement here seems reasonable, none of the parties are willfully ignoring facts, or being self-contradictory. They simply disagree about which facts are relevant. On the other hand, we could imagine a racist claiming that only humans with a certain skin color are persons, and thus it is wrong only to kill them. Here I think the racists has selected a principle that is not a reasonable interpretation of the vague moral principle. Racists often base their beliefs on falsehoods and are committed to self-contradictory claims to get their positions off the ground. What this is meant to show is that not any interpretation is acceptable. Rather only those interpretations that are reasonable will be candidates for specifying moral principles. I acknowledge that more must be said here, but all I need is for the reader to accept that there is such a distinction.

¹⁶ Here I follow Marc Murphy, “Surrender of Judgment and the Consent Theory of Political Authority.” *The Duty to Obey the Law*. Ed William Edmundson. Rowman & Littlefield (1999) p. 324

The advantage here is that we now have a compelling response to the naive chaos objection. When the law selects a morally justifiable solution to a moral coordination problem, then individuals subject to that law, have moral reasons to do as that law requires. Thus, we are not free to do as we wish. The law does important work, and the coordination account presented here explains why we have strong moral reasons to do as the law says. Chaos will not reign.

The disadvantage is that this no longer looks like an anarchist position. What we find, if this is correct, is that we have obligations to obey the laws of the state in a wide variety of contexts. Think back to the objections I raised to the correspondence thesis. What I think we find is that disagreement about moral principles often leads to coordination-like problems, and the law often offers a reasonable interpretation to solve those problems, and when it does we have obligations to obey those laws. There is a temptation to see the law as merely setting a minimum of treatment that we owe each other, and in some respects I think that's true. I think there is more to being a decent person than simply obeying the law. However, we must at minimum avoid harming each other, and as I have argued, what constitutes harm will often to subject to widespread disagreement. We need to know what minimum behavior is expected of us, and what we may expect of others, and the law provides an answer. We may not always agree with the answer, but when the answer is a reasonable alternative interpretation to a vague moral principle I believe we have reason to act according to the law, rather than our own beliefs, precisely because the law coordinates. In some circumstances the law may help us coordinate as we try to go beyond the minimum that we owe others. Certain social welfare programs might be seen as doing this. In these

cases I believe that we have compelling moral reasons to contribute to these programs and to obey those laws that require our contribution. What we find then, is that there is a wide variety of laws that we have strong moral obligations to obey, and it is only those laws that have trivial or no moral content that we may violate if we choose to. When the law clarifies our moral obligations the presence of this law gives us strong reasons to do as the law requires because it coordinates our behavior in morally important ways. The law is not morally superfluous, the law alters our moral obligations. If this is an anarchist position, then it is an anarchist position that many defenders of political obligation would be willing to endorse.

Upsetting the Apple Cart

While I believe that this provides a solution to the problem of political obligation, I must acknowledge that there will be significant resistance to this position. This resistance will come from legal naturalists, statists, and anarchists. In what follows I would like to discuss some objections that I expect would be offered from each and my replies to those objections. The view I defend here is controversial and I believe that will become clearer as we proceed, however, I also believe my view offers the most plausible solution to the problem of political obligation.

The first thing to note is that the argument I have offered here is a natural law solution to the problem of political obligation. The basic idea of legal natural law theory is that the law gives us moral reasons for action.¹⁷ The idea that the law helps clarify

¹⁷ This take on natural law is offered both by John Finnis and Mark C. Murphy. See Finnis, John. *Natural Law and Natural Rights*. P. 18-19; Finnis, John, "Natural Law Theories." in Stanford Encyclopedia of Philosophy p 1-3. Murphy, Mark C. *Natural Law in Jurisprudence and Politics*. P. 1.

vague moral principles is nothing new, and it is ubiquitous in the natural law literature.

In fact, something along these lines is what St. Thomas Aquinas has in mind in his natural law theory. He writes:

... so every human law has as much of the nature of law as it is derived from the natural law. And a human law diverging in any way from the natural law will be a perversion of law and no longer law.

But we should note that we can derive things from the natural law in two ways: in one way as conclusions from its first principle; in a second way as specifications of certain general principles.¹⁸

I take this second alternative offered by Aquinas, the specification or coordination of general moral principles, to be the account I have offered here.¹⁹ Coordination accounts have been around for a long time, and they have also been met with stiff resistance.

In his book “Natural Law in Jurisprudence and Politics” Mark Murphy takes on coordination theories like the one offered here. Murphy is concerned that even if we acknowledge that the law coordinates, we still do not have an adequate theory of political obligation. Murphy writes, “The ‘law as (normatively) salient coordinator’ view does not close the gap, does not show that the mere presence of law is enough to render the law’s determinations of the principle to promote the common good authoritative in absence of something like consent.”²⁰ Let us call this the gap objection. Now there are two ways in which I think we can understand the gap objection. First,

¹⁸ Aquinas, St. Thomas. *Treatise on Law*. Trans. Richard J. Regan. P. 47.

¹⁹ See St. Thomas Aquinas. *St. Thomas Aquinas on Law and Justice: Excerpts from Summa Theologica*. The Legal Classics Library (1988), Immanuel Kant. *The Metaphysics of Morals*. Cambridge University Press (1991), John Finnis. *Natural Law and Natural Rights*. Clarendon Press (1980), Tony Honore “The Dependence of Morality on Law.” *Oxford Journal of Legal Studies*. vol 13.1 (1993), and Patrick Durning “Joseph Raz and the Instrumental Justification of a Duty to Obey the Law.” *Law And Philosophy*. vol 22.6 (2003)

²⁰ Murphy, *ibid.*, p. 111.

Murphy might be objecting that the account I've offered here fails to explain why the an individual must take the determinations of the law seriously. Alternatively Murphy may be objecting that an account like mine cannot explain the authoritativeness of law. Let's consider each of these in turn.

We can understand the gap here as being a problem concerning the citizens' reasons for doing as the law says. Even if the law coordinates, we may wonder why it is that we must follow the law. There does not appear to be anything special about coordination that instructs an individual to follow the coordinating option rather than some other. What is it about coordination that generates obligations for us absent of something like consent? To make the objection vivid imagine that we are impressed on Neurath's raft. We find ourselves in middle of the ocean and we must, for whatever reason, swap out planks of the raft to keep the raft afloat. Imagine also that the raft has a captain who is issuing orders to the raft's occupants that helps them work efficiently such that they can replace the planks of the raft and still keep it afloat. Now, we may be more than happy to acknowledge the captain's orders coordinate here, yet, because we were forced onto the raft, that is, we did not consent to being on the boat or to follow the captain's orders, that we have no obligation to do as the captain says.

If this is what Murphy has in mind, then I think that no such gap exists. At least, there is no gap that causes problems for my position. I do not believe that the law generates new obligations, but rather that the law clarifies existing obligations. I believe that we, as social beings, must recognize the conflicts that will arise if we each of us determines the requirements of morality as we see fit, and thus we must also acknowledge the value of having a shared understanding of our moral requirements.

The law, serves to clarify our obligations to each other. Thus, when we find ourselves on Neurath's raft, we do not have an obligation to obey the orders because they were issued by the captain. Instead we have an obligation to obey the orders because the orders help us keep the ship afloat. Presumably we will want to stay alive ourselves, but we also have an obligation to our shipmates to help them stay alive. Since the captain's orders help us coordinate in such a way that we fulfill this moral requirement, we have strong moral reasons to do as the captain orders. The law then is not a new moral obligation to add to the list of existing obligations that speak to us. Instead it is merely a clarification of the moral obligations we already have.

Alternatively, Murphy may think that the gap is incapable of explaining the authoritativeness of law. That is, we are owed an explanation regarding why the law, as a rule, deserves special consideration when it applies to us. An account of political obligation, like the one offered here, does not appear to be able to say anything more about the law than that it coordinates. For example, imagine that we recognize that we require speed limits on our roads so that we do not harm ourselves or those around us. We may think that there is some tolerable range of speeds that one may drive on residential streets, let's say that this is somewhere between 20 to 30 miles-per-hour. Now suppose that my local government has posted speed limits around my town stating that people may not exceed 20 miles-per-hour on residential roads. Suppose also that I form a shadow government, and I begin to place speed limit signs next to the government's speed limit signs, but my signs set the speed limit at 25. In a circumstance like this, my account of political obligation cannot explain why we ought to obey the speed limits of the government rather than those of the shadow government.

Both speed limits pick out a reasonable specification of the vague moral principle in this context.²¹

There are two response available to me for this objections. First, there may be reasons or moral considerations that lead us to believe that the law does stand out, that the coordination done by legal institutions is somehow special or is more salient than the coordination done by the shadow government. We may argue that the law provides institutions that allow us to appeal punishments for alleged violations of the rules, that the government provides courts that allow us to resolve disputes about the rules when their meanings are unclear, and that the government has institutions to punish violations of the rules. Together these things may make the government's rules salient.

Alternatively, I may simply accept that this account is incapable of revealing that there is anything special about the law. Were we to live in a society where the government was too lazy to determine or post speed limits, but the local church did post speed limits, then I think we would have an obligation to obey the church's posted speed limits, just so long as those speed limits offered coordinated. The move here is simply to acknowledge that what is important about this account is the coordination regarding vague moral principles. If this is done by someone other than the law, so much the worse for the government and its laws. However, I do believe even if we grant this, we will find that in most circumstances the law does, as a matter of fact, coordinate. I see no reason to deify the law in principle.

²¹ I assume here that speed limits are simply extensions of our obligations not to harm or impose unnecessary risks on others.

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