

Phil 116, January 27, 2010
Waldron, “Special Ties and Natural Duties”

Natural duty vs. Consent

1. Foreign visitors to a country have some duty to obey to its just laws
 - Both natural duty and consent theory can explain this.

 2. Foreigners, even when in their own country, have a duty not to undermine the just institutions of another country. (Example: After the bombing of the *Rainbow Warrior*, French officials conspired to obstruct justice in New Zealand.)
 - Consent theory can't explain this. But it can add a natural duty of justice as a supplement. (Simmons is fine with this.) But why then do we need consent theory at all?...

 3. “**Special allegiance**” objection to natural duty = natural duty does not meet Simmons’s particularity requirement.
 - Can we answer that the institutions must “apply to” us in order for us to have the natural duty? But that leads to the...
- “**Application**” objection: institutions “applying to us” can only consist in our having voluntarily done something.

Waldron’s aim is to answer these objections.

“Range-limited” principles of distributive justice:

A person is within the range of (an “insider” with respect to) a range-limited principle P1 iff she is among those whose conduct, claims, and interests P1 is supposed to regulate.

Why should principles of justice be range limited? Why shouldn’t principles of distributive justice, for example, apply globally, especially given the inequalities of wealth between countries?

“Kantian” justification:

- Without a state, we have no stable, defined system of property, and no system to settle the disputes that arise.
- Part of the problem is that there is more than one acceptable system. So we face, in part, a “coordination problem” (e.g., where to meet, what side of the road to drive on).
- Therefore, we all have a moral duty to establish such a system. (For Kant, this has to do with the moral importance of exercising our freedom through property.)
- We must establish a system quickly and with those with whom conflicts over property are most likely to arise. Typically, my neighbors.
- So principles of justice will be range limited.
- But only *provisionally*. If conflicts with former “outsiders” arise, we may need to widen the range.
- See footnote 30:
 - “The situation is complicated somewhat by the fact that outsiders may sometimes justly demand to be treated as insiders. Suppose an outsider interferes with the

local administration of P1, because he wants to promote a principle of wider range-principle P1* that deals justly with his claims as well as those previously dealt with under P1. The outsider in question may be a Bangladeshi and P1* may be a principle of global redistribution.”

Demands of institutions that administer range-limited principles:

What kind of demands must an institution, L, make on insiders and outsiders to implement P1?

1. P1, obviously.
2. P2, applying to insiders: “Accept the supervision of L with regard to the implementation of P1.”
3. P3, applying to both insiders and outsiders: “Do not undermine the administration of P1 by L.” (This is the principle violated by the French officials in the Rainbow Warrior affair.)

“Applies to”:

Institutions *apply to you and to me* when they have been established to implement principles resolving conflicts between *our* conduct, claims and interests.

- Not merely that, since we live in the U.S., we have *more opportunities* to support U.S. institutions.
- Does not explain other elements of patriotism (e.g., rooting for your team in the World Cup), since they have nothing to do with the administration of principles of justice.

Which institutions get to administer P1 and so to impose P2 and P3?

Institution, L, must be *effective*: must be able to administer P1.

- Whether L is effective may depend partly on whether people will (or will continue to) accept L.
- No circularity: *I ought* to accept L, because it is effective, and it is effective because enough *other* people *will* accept L.

There ought to be one and *no more than* one institution, L:

1. Otherwise *conflict* between institutions. Part of the point is to resolve conflict.
2. People can be more *confident* that a single institution will be effective than they can that any one of several competing institutions will be effective.
3. Part of the point of an institution is to resolve coordination problems. But if different institutions propose different solutions, then the coordination problem remains.
4. Justice is *systematic*. Is the income tax just? It depends on the broader context (e.g., How is the revenue used? Is there also a sales tax?). But if there are several competing institutions, then it is unclear how to determine what the broader context is.

What if there is more than one effective institution? We should comply with the *salient* one, i.e., the one that has “*legitimacy*.”

Summary:

- We have a natural duty to support an institution that is:
 - just,
 - effective, and

- legitimate (i.e., the salient organization for a given territory).
- We have a natural duty to obey the institution if it:
 - applies to us (i.e., administers a range-limited principle with respect to which we are insiders).
- Although popular consent may be implicated in the institution's
 - justice (e.g., democracy may be required for justice),
 - effectiveness (e.g., popular support may be part of why an institution is effective),
 - or legitimacy (e.g., popular support is one way in which an institution may be salient),

the duty that we support and obey such an organization is not itself based on any promise that we have made.

- For example, suppose that L is salient because a majority consents to it. Even so, I may have a duty to support even though *I* do not consent, simply because enough *others* do consent (and so make L salient).

The case that an organization may impose itself on us, morally, in this way:

- first, the moral importance of justice; and
- second, the need to pursue justice through political institutions.

Reply to Simmons's example of the Institute for Philosophers:

An institution can be just in two ways:

- (a) operates in a just way, and/or
- (b) does something that justice requires.

For example, Netflix is just in way (a), but not in way (b).

Compare an Institute for the Homeless: Founders *correctly* believe that the homeless are entitled, as a matter of justice not charity, to more aid than the state gives them. Just not only in way (a), but also (b).

If it is effective and not in competition with any other institutions, then the theory of natural duty might yield the conclusion that we are morally bound to support it. Is this as implausible? What does it imply about a natural duty of justice to support states?