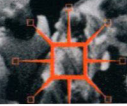
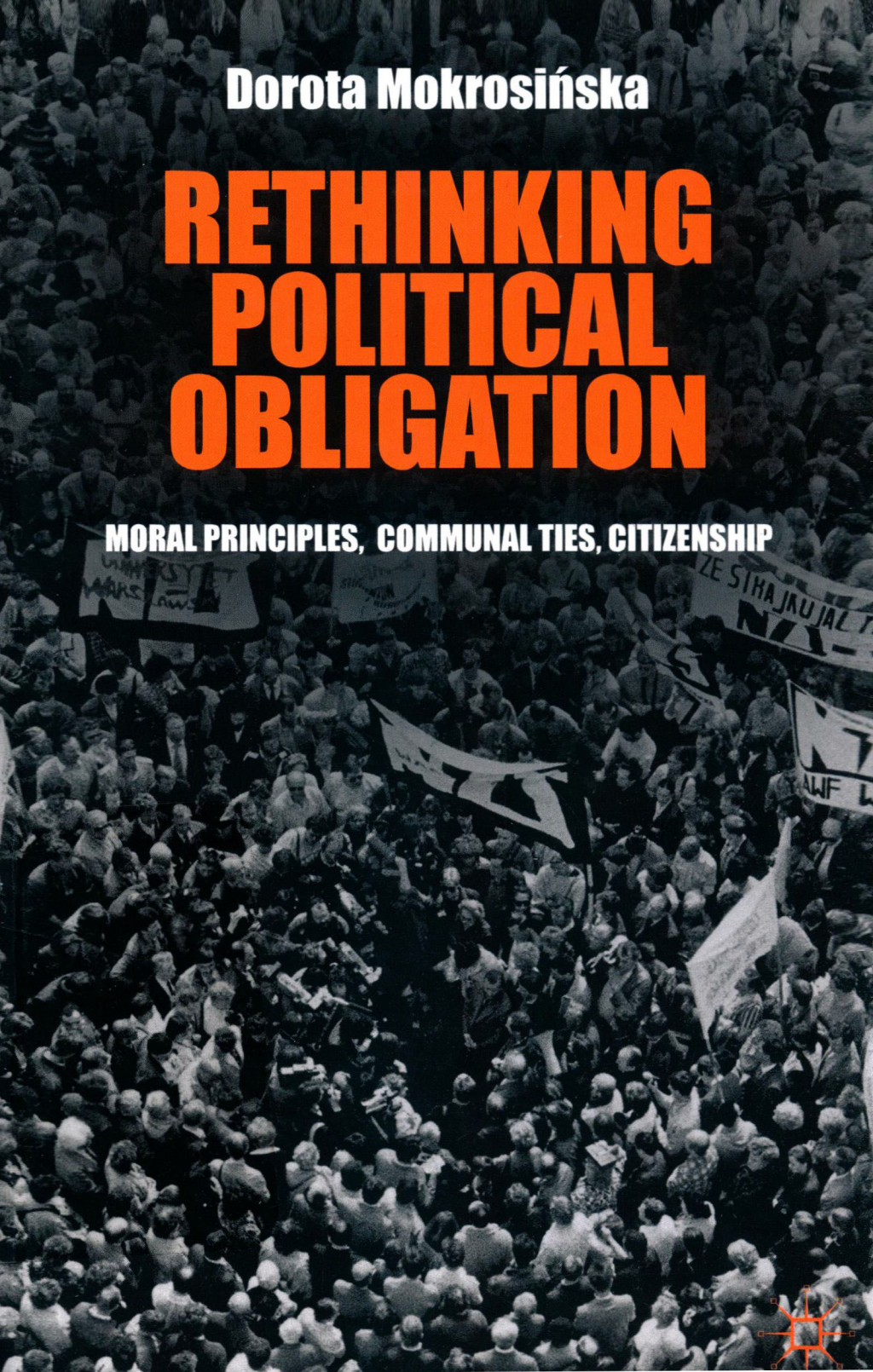


Dorota Mokrosińska

RETHINKING POLITICAL OBLIGATION

MORAL PRINCIPLES, COMMUNAL TIES, CITIZENSHIP



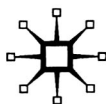
Rethinking Political Obligation

Moral Principles, Communal Ties,
Citizenship

Dorota Mokrosińska
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Rethinking Political Obligation

To the unknown friend – our ways crossed in June 1987

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Preface

I still remember the day that made clear to me that obedience to the government is anything but self-evident. It was on 13 December 1981, the day on which General Jaruzelski, commander-in-chief of the Polish armed forces and the leader of the Polish Communist Party, issued the order declaring martial law in Poland. The order banned the Solidarity trade union, the first trade union in the Soviet block independent of the communist government. It put an end to a mass social movement, initiated by the formation of Solidarity, which aimed at liberating Polish society from the grip of the authoritarian state. The restrictions that followed were severe and the historians studying this period have not hesitated to call them draconian.¹ Solidarity's offices, documents and money were confiscated and many of its activists were arrested. All other social and professional organisations were suspended, as was the right to strike. Public meetings and demonstrations were banned, borders and civilian airports closed, telephone communications cut, gas stations shut down, censorship of the mail was introduced and a curfew imposed. People were not allowed to travel outside their city of residence without a permit from the authorities. Anyone who was thought to threaten the interests of the communist state could be immediately interned for an indefinite period.² Public service employees and workers in many enterprises were threatened with dismissal if they did not sign a 'loyalty pledge' declaring their resignation from Solidarity and their loyalty to the communist state. Along with many other journalists, my mother was fired. I remember columns of army trucks and police vans driving around and troops armed with rifles patrolling the streets.

At the time all this was happening I was a child and it would be only many years later that I would call the problem of grounds for and limits to obedience to the government we confronted in 1981 the 'problem of political obligation'. In the meantime, I was growing up in dissident circles and in a sphere dominated by the idea that the project of a just society that Solidarity stood for required resistance to the government. Our house became a meeting point of opposition activists and a storage place for various underground materials. My father, who was the treasurer of a local Solidarity unit, kept trade union money in a broken TV set in the bedroom.

In June 1987 an acquaintance of my parents asked me to distribute a bunch of anti-government leaflets. A friend of mine lived in a conveniently situated flat, and I decided to drop them from her balcony. The local Solidarity unit had planned a radio transmission in the same block at the same time. The place was full of secret police, though I didn't know that at the time. I dropped the leaflets and had hardly left the flat when the police arrived at the door. A friend of my friend's older sister, who happened to be passing by, was arrested. He spent three months in prison. But even the harm to an innocent person that I had caused did not shake my conviction that the proper attitude to the government was resistance. The value inherent in the model of a just society that Solidarity stood for, and which I experienced in daily interactions with the people dedicated to it, gave me a sense of commitment and purpose that I have never experienced since. After the collapse of the system, I learned that the acquaintance of my parents who had given me the leaflets worked for the secret police. I asked myself then whether political provocation made acts of resistance less right. My answer was no.

Years later, and in a different country, I took my first classes in political philosophy. Accidentally or not, one of the first courses I took was one with the provocative title: 'Why not anarchy?' It dealt with theories of political obligation. The topic did not square with my political experience at all. Until then, the presumption in favour of disobedience and distrust of the idea of political authority had become an almost pre-reflective idea that organised my perception of the world. Obedience smacked of opportunism and the betrayal of ideals. I could not think of any purpose for which a government could be helpful, let alone necessary. Yet the way the topic clashed with my views was sufficient to make me realise that the answer to the problem of our relationship with the government that struck me as obvious in December 1981 may have been correct in the circumstances of the 1980s in Poland, but was certainly not complete. My interest was triggered: after I had first discovered a duty to disobey the government, I began a research project that investigated the possibility of political obligation. Working on the project brought me back to the initial intuitions I had formulated as a reaction to the events of 1981. At that time, I believed that resistance to the government was justified by virtue of the value inherent in the model of social organisation underpinning the demands of Solidarity. I have now been able to give a name to that value. This book introduces the value of civil justice and analyses it in Chapters 7 and 8.

To the person I was in the 1980s, these chapters would certainly have come as a surprise. For I believe now that the same value that justified disobedience to the authoritarian communist government in Poland in the 1980s can, under different circumstances, act as grounds for an obligation to obey the government.

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1

The Problem of Political Obligation

Political obligation, in its primary sense, refers to a moral requirement to obey the directives of the state (the government, law).¹ How, if at all, can we acquire such an obligation? What are its limits? The debate concerning political obligation has had a prominent place in political philosophy. This should not be surprising if we reflect on what is at stake in how the problem of political obligation is answered.

Political obligation has traditionally been seen as a condition for the legitimacy of political power.² With state legitimacy in question, the stakes in the debate concerning political obligation are high. If we have no obligation to obey the state, what does this imply for the normative status of the government's directives and laws? For example, if we have no obligation to obey tax laws and the government has no corresponding right to demand that we pay taxes, how is a tax collector different from a thief? If we have no obligation to obey traffic laws, how is a policeman different from a gunman?

The problem of political obligation is conceptually prior to a number of other issues in political philosophy. Obviously, the status of civil disobedience and the right of groups to secede critically depend on how we solve the problem of political obligation. A sufficiently sceptical response to the problem of political obligation renders such acts morally permissible. A number of other philosophical discussions depend on how the problem of political obligation is answered. For example, we seem to need a solution to the problem of political obligation before we discuss which principles of distributive justice should guide governmental policies. Such debates seem otiose unless governments have the authority to distribute resources and citizens have an obligation to comply with their government's policies.

1 Political obligation and the authority of the state

Traditionally, the concept of political obligation has been understood as tied to that of political authority, but the order in which these concepts are linked has not always been the same. For earlier writers, political authority was normatively prior to obligations to obey it. Medieval political theory, as R. S. Downie observes, understands political authority as divinely instituted or as sanctioned by custom.³ The existence of authority is held to imply a corresponding obligation to obey that authority. The religious, economic and intellectual upheavals of the Reformation in sixteenth- and seventeenth-century Europe brought about a rejection of the arguments appealing to scripture and custom.⁴ For modern and contemporary writers, political authority is a matter of human will, and they reverse the order in which political authority and political obligation are linked. In particular, they endorse the view that the state's right to rule has a normative standing only by virtue of reasons that individuals have to be subject to it.⁵ Political obligation is, here, normatively prior to political authority.

In this work, I endorse the thesis about the correlativity between political obligation and political authority, conceiving of political obligation as a condition of political authority. When endorsing the correlativity thesis, one should be careful about what exactly that thesis involves. The correlation between the concepts of political obligation and political authority is not entirely symmetrical. Political philosophers sporadically recognise that political obligation can also dictate disobedience to the government.⁶ When political obligation requires disobedience to the government, no political authority is established or, rather, the authority that had been granted to the government is withdrawn. This means that political obligation can bind individuals even if no political authority is operative at a given moment. The symmetry between the concepts of political obligation and political authority is, then, not complete: while we cannot speak of political authority in the absence of political obligation, we might speak of political obligation in the absence of political authority. The fact that we can speak of political obligation in the absence of political authority indicates that construing political obligation as an obligation to obey the state does not exhaust the meaning of this concept. As Bhikhu Parekh has pointed out, political obligation may include obligations other than the obligation to obey the state. In this broader sense, political obligation addresses citizens' engagement in political life: it requires them to take an interest in their society's social and political issues; to keep a

critical eye on the activities of their government; to speak up against injustices that prevent some groups from exercising their civil rights; and to criticise, protest against and disobey laws that harm the interests of society.⁷ In this work, I focus on the default meaning of political obligation, *viz.* an obligation to obey the state. My discussion, however, will have implications that go beyond this restricted definition of political obligation.

I have endorsed the claim that political obligation is a correlate of political authority. A number of contemporary authors deny the correlativity thesis. In their view, one can account for political authority in detachment from an obligation to obey it. Before proceeding with my discussion, I would like to briefly address their position.

The argument that the authority of the government does not presuppose political obligation on the part of the government's subjects has been pursued in two variants. According to the first, political authority does not correlate with its subjects' obligations to obey its commands. The government's right to issue commands backed by force is understood here as a mere liberty right or permission, anchored in an independent justification that any agent might have to coercively affect others' behaviour.⁸ According to the second variant, the liberty right to issue commands backed by force correlates with obligations other than political obligations. It is said to correlate, not with obligations to obey the government's commands, but with obligations not to interfere with the government's enactment and enforcement of its commands.⁹ Both variants, I submit, are problematic because they collapse one of the most fundamental distinctions in modern and contemporary political philosophy, namely, the distinction between the state of nature and civil society. As presented in the classic writings of Hobbes and Locke, the relationships among persons in the state of nature are symmetrical: each person has the right to use force to compel compliance with what he judges to be his morally justified commands. With the transformation of the state of nature into civil society, though, the relationships become asymmetrical: the rights attributed to political authority, commonly vested in the government, set it apart from all other groups in society and from ordinary citizens.¹⁰ Now this asymmetry between the government and its subjects would disappear if a mere liberty right to issue commands backed by force were sufficient to attribute political authority to the government. A resort to force cannot be justified unless it is a means to enforce performance of (perfect) pre-existing duties. Hence, if political authority of the government consisted in justified coercion, then the government could not issue commands backed by

force in any other way than by pointing to pre-existing duties. However, if the government issued commands backed by force by pointing to pre-existing duties, the directives of the government would not be different from the directives that any of its subjects might issue, for every private individual has a moral right to issue commands backed by force to enforce others' pre-existing duties on some occasion or another, such as in cases of self-defence or in defence of others. So if political authority consisted in the exercise of justified coercion, then we would have to impute political authority to every private individual. Consequently, the government would not have any rights that ordinary individuals lack and its presence would make no difference to the state of nature.

Here is another way of putting the point. Political authority is traditionally defined by its possession of the right unilaterally to create new and cancel existing obligations of others just by issuing directives for action.¹¹ The action-guiding force of commands issued by the authority is not conditional on the results of deliberation concerning the merits of the commanded action. Authoritative commands are intended to bind in a content-independent way: it is the fact that they have been issued, and not their content, that is intended to provide the subject with a reason for obedience.¹² Now if the government issues commands backed by force by pointing to pre-existing duties, its commands lack content-independence. If the action-guiding force of the commands of government lacks the content-independent character, the directives of the government are no different from the directives that any of its subjects may issue. I conclude that the attempts to define political authority as detached from political obligation collapse the distinction between civil society and the state of nature and, for this reason, are unsuccessful.

2 *An obligation to obey*

The debate about political obligation has focused on the question as to which, if any, moral principles could make obedience to the directives of the government a matter of *obligation*.¹³ What makes political obligation problematic here is the character of the obedience it requires. Given that political obligation, *pace* the correlativity thesis, is a source of political authority possessed by the state, political obligation must require obedience to the state in a way that corresponds to the action-guiding character of political authority. Authoritative commands, as I mentioned above, are requirements intended to be taken as content-independent reasons for action. If political obligation is to confer on the state the authority to command, then it must require obedience

to the commands of the government in a content-independent way. Now content-independent obedience is troubling because it disconnects the agent's actions from her deliberation. In so doing, it seems to require the agent to surrender control over her actions.¹⁴ What makes political obligation a challenge, then, is explaining how content-independent obedience can be a matter of *obligation*¹⁵: we should explain how the directives of the government can make a difference to our moral reasoning independently of the nature of the action prescribed. The content-independent character of political obligation is what makes political obligation unacceptable for the anarchist: the anarchist is prepared to obey the government for various prudential and moral reasons, but not because the government requires it. For example, the anarchist can admit that he has a duty to refrain from theft because theft involves an immoral appropriation of another's property, but not because it is a breach of law.¹⁶

3 What makes political obligation *political*?¹⁷

Following the dominant trend in modern and contemporary political philosophy, I have so far presented the problem of political obligation as the question of which, if any, moral principles could make content-independent obedience to the directives of the government a matter of *obligation*. Another way to approach the problem of political obligation is to inquire into its *political* character. Note that relationships of content-independent obedience can be established in the state of nature: nothing in the state of nature prevents one from submitting oneself to the domination of another and from taking his directives as reasons for action in a content-independent way. If *political* obligation is to mark a difference between the state of nature and political society, then the relation of domination and submission it involves will also have to reflect that difference.

With the question of what is *political* about political obligation, I enter unexplored territory in the debate concerning the problem of political obligation, territory that has not received attention in the literature on the topic. Perhaps this is because most see the *political* character of political obligation as exhaustively explained by the fact that it requires obedience to the government – a body possessed of specifically political authority. I will call this view the Simple View. Were the Simple View right, the question about the *political* character of an obligation to obey the government would be tautological. The question would answer itself: an obligation to obey the government would, by definition,