

Hirohide Takikawa  
Osaka City University

## Citizens as Brothers? Critically Analyzing Dworkin on Political Obligation

### 1. Dworkin on political obligation

This paper examines Ronald Dworkin's theory of political obligation<sup>1</sup>. Since Socrates, many attempts have been made to justify political obligation in a variety of ways. In his *Law's Empire*, Dworkin finds the best defense of political obligation not in the terrain of contracts, obligations of fair play or the natural duty of justice, but in the ground of associative obligations like obligations of family or friends. Based on a general theory of associative obligations, Dworkin develops a very complicated argument for political obligation by using intricate devices such as "interpretive", fraternity, true community, a community of principle, integrity and equal concern. First, I briefly explain what these concepts are about. Then, I clarify the logical structure of his argument, and finally examine and criticize his argument.

#### 1.1. Associative obligations

Associative obligations are special obligations we owe to our family or friends. Dworkin defines them as "special responsibilities social practice

<sup>1</sup> In Takikawa, H. 2006, I have briefly shown that the relationship theory to justify political obligations fails. In this paper, I pick up Dworkin's argument, which I believe is the best version of the relationship theory, and examine it more closely.

attaches to membership in some biological or social group"<sup>2</sup>. Members of family or friends have associative obligations just by belonging to groups defined by social practice.

#### 1.2. Interpretation

Social practice defines obligations not through the explicit extension of conventions, but in an interpretive way. To interpret social practice is to find the way to show it in the best light. When people discuss obligations to their friends, they interpret what friendship really is and what they really owe their friends. This "interpretive property"<sup>3</sup> of associative obligations is highly important for Dworkin's argument for two reasons. First, the interpretive way enables Dworkin to claim that even citizens with no emotional bonds do have associative obligations because citizens in modern large states lack the psychological moment but may have the associative moment with the interpretive attitude. Second, the interpretive property of associative obligations avoids dangerous nationalism or even racism because interpretation contains the dimension of justification. This interpretive characteristic enables Dworkin to claim that "the best interpretation of our own political practices disavows that [dangerous] feature"<sup>4</sup>.

#### 1.3. The four conditions: special, personal, concern and equal

Then, Dworkin with no argumentation introduces the four conditions of "genuine fraternal obligations"<sup>5</sup>. First, the members of a group must regard "the group's obligations as *specia*." They have obligations only to their members not to the people in general. Second, they must accept that their obligations are *personal*: that "they run directly from member to member, not just to the group as a whole in some collective sense". Third, they must see their obligations as "flowing from a more general responsibility each has of *concern* for the well-being of others in the group". Fourth, they must sup-

<sup>2</sup> Dworkin, R. 1986: 196.

<sup>3</sup> *Ibid.*: 201.

<sup>4</sup> *Ibid.*: 206.

<sup>5</sup> *Ibid.*: 199-200.

pose that “the group’s practices show not only concern but an *equal* concern for all members”. Only when these four conditions – special, personal, concern and equal – are met, genuine fraternal obligations arise.

#### 1.4. A bare community and a true community

Based on the four conditions, he distinguishes a “bare” community and a “true” community<sup>6</sup>. A bare community is “a community that meets the genetic or geographical or other historical conditions”. On the other hand, a true community is a bare community which meets the four conditions. Based on this contrast, Dworkin claims that “if the conditions are met, people in the bare community have the obligations of a true community whether or not they want them”<sup>7</sup>. In other words, the members in a true community have associative obligations.

#### 1.5. A community of principle

Finally, Dworkin provides three models of community: the *de facto* accident model, the rulebook model and the model of principle<sup>8</sup>. The first model supposes that the members of a community take their association as only a *de facto* accident of history and geography. The second model assumes that the members of a community have a general obligation to obey rules established in a certain way. The third model, the model of principle, presumes that the members of a community are governed not only by rules but also by common principles.

Having provided the three models, Dworkin examines whether each model satisfies the four conditions of true associative obligations<sup>9</sup>. The *de facto* accident model violates even the first condition of specialty. The rulebook model cannot satisfy the third condition of concern because the concern the members of a community show to each other is too shallow to count as genuine concern at all. The model of principle meets all four conditions.

<sup>6</sup> *Ibid.*: 201.

<sup>7</sup> *Ibid.*: 201.

<sup>8</sup> *Ibid.*: 208–211.

<sup>9</sup> *Ibid.*: 211–214.

Because “a community of principle accepts integrity”, the model assumes that “each member must be treated with equal concern”<sup>10</sup>.

## 2. The logical structure of Dworkin’s argument

Now we have identified all the tools contained in Dworkin’s associative obligation argument. The logical structure of his argument can be analyzed as follows:

- (D1) The members have associative obligations in a community which meets the four conditions (special, personal, concern, equal).
- (D2) A bare community which meets the four conditions is a true community.
- (D3) The members have associative obligations in a true community. (From D1&D2).
- (D4) A community of principle accepts integrity.
- (D5) A community of principle meets the four conditions.
- (D6) A community of principle is a bare community.
- (D7) A community of principle is a true community. (From D2&D5&D6).
- (D8) The members have associative obligations in a community of principle. (From D3&D7).
- (D9) The members have associative obligations in a community which accepts integrity. (From D4&D8).
- (D10) A certain state accepts integrity.
- (D11) The citizens have political obligations in the state. (From D9&D10).

This logical analysis shows that Dworkin’s argument has six premises – D1, D2, D4, D5, D6 and D10 – to deduce the conclusion D11.

At the same time, this analysis makes it clear that the conclusion does not require all of the six premises. Let us focus on the premise D8. Indeed, D8 deduces from D3 and D7. However, D8 can logically deduce from D1 and D5. Therefore, the premises required to deduce D11 are only four: D1, D4, D5 and D10. As a result, D2 and D6 are logically redundant. That is, the contrast between a bare community and a true community is unnecessary for his argument.

<sup>10</sup> *Ibid.*: 213–214.

### 3. Critical analysis on Dworkin's argument

#### 3.1. The four conditions or emotional bonds

Let us examine each of the four premises: D1, D4, D5 and D10. I start from the premise D1, which says that a community which satisfies the four conditions generates associative obligations. It might not be easy to understand what D1 is about. The point of D1 would be made clear when compared with D1':

**(D1') The members have associative obligations in a community tightened by emotional bonds**

D1' claims that the condition of associative obligations is emotional bonds, but not Dworkin's four conditions. D1' supposes that a feeling of connectedness embedded in a community generates associative obligations.

Contrasted with D1', D1 finds the ground of associative obligations in the idea of "giving equal concern only to each member". In other words, the point of Dworkin's argument lies in equal concern. Equal concern in a community, not emotional bonds, generates associative obligations. The reason why Dworkin adopts D1 instead of D1' to justify political obligation is that a national community lacks emotional bonds. Citizens in a large state never meet each other. Hence Dworkin must emphasize such a thin relationship as equal concern among citizens to argue for political obligation. In addition, he must highlight the interpretive property of associative obligations to claim that the psychological lack of mutual concern among citizens does not cancel associative obligations and that equal concern best interpreted generates them. John Simmons criticizes Dworkin's argument by saying that "I find a bit bizarre that the best interpretation of a family's 'practices' or a friendship's 'practices' might involve reciprocal and equal concern, even if the family members or 'friends' lacked any attitudes or feelings of concern toward one another"<sup>11</sup>. The question is why we should adopt D1 instead of D1' as the best explanation of associative obligations. This question arises because it is far from clear what place equal concern should take in the whole theory of associative obligations.

<sup>11</sup> Simmons, A.J. 2001: 78.

#### 3.2. What is integrity?

The same question concerns D5 as well as D1. As D7 suggests, Dworkin simply identifies a community of principle which accepts common principles with a true community which has equal concern. Simmons criticizes: "Dworkin's identification [...] is both questionable and deeply prejudicial to his case"<sup>12</sup>. The logical structure analysis shows that D7 follows from D2, D5 and D6. Because D2 and D6 are logically redundant, all we need to examine is D5, especially the relationship between D5 and D4, in order to evaluate D7.

According to Dale Smith, integrity has at least two different principles<sup>13</sup>. The first principle requires that a law not discriminate between people in a way that cannot be supported by any recognizable principle of justice. The second requires coherence between the legal principles that underlie and justify different legal rules. On the one hand, what is wrong with "the checkerboard laws"<sup>14</sup> is that they contradict with the first principle of integrity, that is, equal treatment. On the other hand, a necessary condition to justify political obligation is the second principle of integrity, that is, coherence among principles, according to Smith's analysis<sup>15</sup>. That is, integrity in D4 is coherence among principles, but not equal treatment.

Rather, Stephen Perry rightly observes that a necessary principle of integrity to justify political obligations is equal concern itself. "It is nevertheless very plausible to think that the idea of equal concern would play a central role in justifying an associative *political* obligation. The concern in question would be expressed by the state, through its laws and governing actions, toward all its citizens"<sup>16</sup>. Political obligation is justified by equal concern, which is required by integrity<sup>17</sup>.

<sup>12</sup> Simmons, A.J. 2001: 79, n. 35.

<sup>13</sup> Smith, D. 2006: 148.

<sup>14</sup> Dworkin, R. 1986: 179.

<sup>15</sup> Smith, D. 2006: 143.

<sup>16</sup> Perry, S. 2006: 199.

<sup>17</sup> In his recent book, Dworkin agrees with this understanding by saying that the ideal of political *integrity* is "the principle that a state should try so far as possible to govern through a coherent set of political principles whose benefit it extends to all citizens. Recognizing and striving for that dimension of *equality* is, I think, essential to the *legitimatization of state coercive power*" (Dworkin, R. 2006: 13, Takikawa's emphasis).

### 3.3. Brothers under a universal father

This insight invites two issues: *equality* of concern and *personal* obligation. The first issue is how integrity of a community assures *equal* concern among the members. Aristotle argues that concern from one member to another is not necessarily equal. In his famous discussion about friendship (*philia*), he claims that “there are both friends who are on an equal footing and friends on a footing of disparity”<sup>18</sup>. Equality of concern is not a necessary condition of friendship in a broad sense, and therefore is not a ground of associative obligations based on Aristotelian theory of friendship. That is to say, Aristotle rejects the fourth condition of true associative obligations.

Rather, it would probably be better to assume that Dworkin relies on Kant’s theory of friendship instead of the Aristotelian one. In his *Metaphysics of the Moral*, Kant writes:

The expression ‘a friend of man’ includes the idea and consideration for *equality* among men, and hence the idea that in putting others under obligation by his beneficence he is himself under obligation, as if all men were brothers under a universal father who wills all bliss<sup>19</sup>.

The relationship between children and their father includes *reciprocal* love, but lacks *equal* love, which is the essence of friendship for Kant. Friendship is love among equals, and therefore friends express equal concern to each other. Because brothers as equals love each other, we can say, with Jacques Derrida, that friendship is fraternity<sup>20</sup>. When Dworkin stresses equality of concern among members of a community, he assumes that friendship among citizens is, in essence, fraternity<sup>21</sup>. Equality among brothers can be assured under “a universal father”, which is, in Dworkin’s argument, integrity as coherence among principles. Citizens are treated as equals and become brothers under integrity. Thus understood, equal concern follows from integrity. In other words, D5 deduces from D4.

<sup>18</sup> Aristotle: 1162a34.

<sup>19</sup> Kant, I. 1797: Ak. VI 473, Kant’s emphasis.

<sup>20</sup> Derrida, J. 1994: 293.

<sup>21</sup> After explaining a general theory of associative obligations, Dworkin with no notice starts using the term “fraternal obligations” instead of “associative obligations” when he justifies political obligations. This change of terminology suggests that political obligations are not obligations between children and their parents, but obligations among brothers. (Remind that the Latin *frater* means “brother”.)

In sum, citizens are brothers when they are governed and treated equally under integrity. Citizens as brothers owe political obligations as associative obligations. This is the point of Dworkin’s argument.

### 3.4. Obligation of obedience

If my analysis is correct, Dworkin’s argument faces at least two problems. The first concerns the content of obligations. Associative obligations generated from brotherhood include mutual aid and mutual respect, but not the obligation of obedience<sup>22</sup>. A mature younger brother has no obligation to obey the rules established by his elder brother. That is, associative obligations in D1 and political obligations in D11 are so different that D11 cannot follow from D1.

### 3.5. The world community

The second problem Dworkin must face concerns the specialty condition. Suppose that D10 holds true: a certain state accepts integrity. That is, we can find equal concern among citizens under the best interpretation of the state’s practices. If so, we could probably find equal concern among world-citizens under the best interpretation of the global practices as well. We now have the global practices exemplified by international law, international organizations, government networks, ODA (Official Development Assistance) and international cooperation activities of NGOs. Interpretive property of associative obligations, which Dworkin stresses, leads to the conclusion that equal concern stands not only among the citizens but also among the people all over the world. This conclusion fails to meet the first condition of associative obligations Dworkin himself identifies.

In 3.1, I suggested that we can find emotional bonds in a family, but not in a national community. That is the reason why Dworkin adopts D1 instead of D1’ and emphasizes the interpretive property of equal concern in a community. This enables him to claim that a nation as well as a family holds equal concern. However, he cannot help but claim that not only the

<sup>22</sup> Green, L. 2004: 272.

nation but also the world community holds equal concern. This conclusion is inconsistent with the requirement of particularity Dworkin accepts.

### 3.6. Are political obligations personal?

Finally, I turn to the second issue I pointed out earlier: *personal* obligation. My doubt is that we can no longer regard Dworkin's argument as a theory of associative obligations. It relies on the third and fourth ones (equal concern) among the four conditions in D5, but seems to fail to meet the second one (personal). The question is: Are political obligations personal in a community of principle?

Dworkin gives us the assertive answer. "It [a community of principle] makes these [citizen's] responsibilities fully personal: it commands that no one be left out, that we are all in politics together for better or worse, that no one may be sacrificed, like wounded left on the battlefield, to the crusade for justice overall"<sup>23</sup>. This answer, however, misses the point. The second condition of true associative obligations is that an obligation is owed from one person to another. On the other hand, political obligation, as Dworkin here suggests, is owed from an individual to her state. Even personification of the state cannot make political obligation personal as long as we follow Dworkin's definition of associative obligations<sup>24</sup>. In brief, political obligations in a community of principle are not personal, and therefore not associative. Hence, D5 is false. The third and fourth conditions among the four conditions in D5 can deduce from D4, but the second one cannot.

## 4. Conclusion

Dworkin's argument for political obligations is one of the best theories based on associative obligations. This paper shows, however, that Dworkin's argument contradicts with his own definition of associative obligations. Therefore, we may now conclude that political obligations are not associative. Even if we have political obligations, the reason is not that we the citizens are brothers under a universal father.

<sup>23</sup> Dworkin, R. 1986: 213.

<sup>24</sup> Perry, S. 2006: 190.

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