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THE MORAL JUSTIFICATION OF CIVIC DUTIES. CO-CITIZENS, NON-CITIZENS AND REFUGEES

ABSTRACT

In the first part of the article the concept of associative duties and their justification as distinctive from general moral duties are analyzed. The second part considers associative duties to fellow citizens and distinguishing features of those duties such as reciprocity, mutuality and equal status. In the final part the author deals with specific cases concerning refugees and stresses arguments as to why the associative duties of co-citizens should overcome duties to refugees, as well as the failures of those arguments. It is argued that the status of refugees is different from the status of other non-citizens, such as immigrants, due to the lack of institutional representation and protection.

Keywords: morality, associative duties, civic duties, justification, refugees.

ASSOCIATIVE DUTIES

Parents should take care of their children, their health, their upbringing, their emotional, physical and intellectual development, just like children should take care of their old parents. A friend should help his/her friend in trouble. We should keep our promises. We believe that it is a global moral imperative to reduce inequalities both between the citizens within the same country and between the citizens of rich and poor countries. What all these cases have in common is the duty to act in a certain way, but here we still discuss different types of duties, especially if we take into account that there are also some conflicting duties, i.e. that in some cases performing one duty means neglecting another one.

From the perspective of everyday morality, it is most often assumed that duties towards a close person or associative duties take the priority over the general duties, that is, duties to help people as such: a friend in trouble should be helped but we do not have to help a distant person who is a stranger to us when

this person finds himself/herself in the same situation as a friend.¹ Still, we usually help this person, too, if we can (and when there are no big and burdening expenses), or if we had promised this person we would help him/her. First of all, it is necessary to make a distinction between associative duties, that is, duties which occur because we have a particular relationship with a certain person, and contractual duties which occur between parties in an agreement. Unlike contractual duties which are valid on the base of a promise, an agreement, contribution, compensation or acceptance, associative duties are most often tacit, in certain cases non-voluntary, and they always result from the very specific relationships between the subject and the other person or group. People would have duties because of the fact that they are associated in a specific way with someone, either their families, neighbors, members of a union or a club, friends, or, co-patriots and co-nationals which is often a matter of a dispute. Contractual duties as explicit ones are clear cases of duties, unlike associative and general moral duties the content of which is determined through unspoken moral principles, through the habit or steady conviction that a certain situation brings such-and-such duties, and not through an explicit acknowledgement that a person will follow particular provisions and rules.

The next important difference between types of duties is between associative and general duties, mentioned above. Nonetheless, at the principal level, general duties have a greater moral value because they depend on the content of duties and not on the type of relationship between people engaged in moral activities, or features of the relationship between duty-holders and beneficiaries. At the level of practical actions, people are oriented according to associative duties: a type of connection between persons reveals reasons for moral actions, thus parenting itself is the reason for parents taking care of their children, while the neighbourhood itself is the reason for a necessary help to a person next door. These specific reasons which dictate what should be done in a certain situation are often missing when we speak about people in general. Therefore, types of relationships which come from affiliation or interconnection lead and direct moral duties, which makes moral actions more clear, certain and possible in achieving the goal of fulfilling a duty, and which is often missing in case of general duties to distant people. We usually know how to treat parents or what our duties towards our friends are, but we are not sure of how to help the hungry in Sub-Saharan Africa or prevent the war in the Middle East, if we even consider this to be our primary duty in the first place.

From the standpoint of general moral duties, common sense morality—according to which local duties, that is, duties towards people we are related to have priority over those towards strangers or unknown persons—is not a moral-

¹ On associative duties and their distinctiveness see Scheffler, S. 2001. *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought*. Oxford: Oxford University Press, 48–66.

ly-founded perspective. The upholding of general duties, based on comprehensive moral principles, does not entail that local duties are obstacles for the achievement of global justice. However, the standpoint of general moral duties entails that associative duties do not have the priority over general ones at all, and hence the strength of the former is not bigger than of the latter. Also, associative duties, such as loyalty to a football team, are often irrelevant from the moral perspective, thus a person is not obligated to follow them in this case. Moreover, the loyalty to a collective, or one's country could easily lead to parochialism and nationalism. The trivial fact that two people are born in the same territory, share the same language and culture cannot serve as a justification for their mutual favouring or neglecting needs of the members of a distant group. On the other hand, several authors try to establish the legitimacy of associative duties and distinguish the specificity of duties that occur due to affiliation to a political community. The position claiming that associative relations develop morally valuable special duties directs us to the hypothesis that it is civic relations, that is, relations with fellow citizens, that constitute special political duties. Just like associative duties rely on particular values different from duties towards humanity as such, political duties differ from global ones, that is, duties towards people regardless of their national belonging.

THREE TYPES OF JUSTIFICATION FOR ASSOCIATIVE DUTIES

Let us set aside the dispute about whether or not political duties are associative duties and whether associative duties can be reduced to more general duties or duties of other kinds.² Since we are interested in the justification of duty among citizens, the primary question here is how can associative duties be justified? Basically, these justifications can be divided into three groups: valuably-independent justifications, instrumental justifications and valuably-dependent justifications.³

² Cf. Scheffler, S. 2001, op. cit., 49; Keller, S. 2009. "Making Nonsense of Loyalty to Country." In: *New Waves in Political Philosophy*. de Bruin, B., Ch. F. Zurn (Eds.). Basingstoke: Palgrave Macmillan, 87–104; Wellman, Ch. H. 2000. "Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun 'My'?" *Ethics*, 110, April, 537–562.

³ This division is introduced in: Bader, V. 2005. "Reasonable Impartiality and Priority for Compatriots: A Criticism of Liberal Nationalism's Main Flaws." *Ethical Theory and Moral Practice*, 8, 87–88. My interpretation is an attempt to expand Bader's rather concise determination of division, where Bader includes into the external standards of justification what I include in the conditions of internal moral justification of relationships. Moral associative duties are externally justified when they do not endanger the third party, or persons outside the relationship, whereas conditions of internal moral justification are those given by Veit Bader—"reciprocity" of the relationship (D. Miller), "equal worth" of participants (R. Dworkin) or "justice and fairness" (S. Caney). They are necessary for the legitimacy of civic duties and here we speak about internal relations between citizens themselves.

Value-independent justifications are based on the presumption that duties are justified by the very fact that people perceive them as valuable, because they stem from our identity, devotion, affection, etc. Here we speak about the explaining of duties and partialities which attributes a moral value to the association itself, without any need to justify this from an independent moral perspective. However, very few theoreticians defend such justification in its pure form and most defenders of associative duties take into account the moral content, that is, moral values which stem from association.

Instrumental justification acknowledges the value of duties from association because they enable the realization of general goals, that is, because of the external good that comes from those duties. Although there is no doubt that people engage into numerous groups expecting gain, this position would be too restrictive and exclude various forms of association as worthless. Thus David Miller differs relations which have an instrumental value from those with an intrinsic values.⁴ A friendship is valuable itself, in contrast with, for example, a union existing only to play lottery together and increase the chances of winning. In this second case we speak about an instrumental value when relations of mutual duty are lost. Our relationships in a union of this kind are limited to achieving a certain goal while independently of this goal we are not interested in these people. On the other hand, in a friendship we have compassion, we help others, spend time with them, trust them, etc., that means we try to build a relationship intertwined with various duties.

Finally, the position which attempts to surpass difficulties of non-critical associativism and instrumentalism is the non-reductionist *justification of duties of association based on moral restrictions*. This perspective does not consider associative duties morally valuable only if they are compatible with general impartial ethical duties (as considered by ethical reductionism, along with consequentialism and Kantian ethical conceptions), instead it assumes that each partiality and duty coming from special relations between subjects or their interaction should be limited by external moral standards. Also, those relationships can develop special morally valuable internal duties themselves. The duties stemming from belonging to the mafia or SS units are thus not morally valuable because they are unjustified from an external perspective. Also, we could not justify affiliation to a state which does not respect its citizens, that is, subjects themselves which should have civic duties—duties towards a group are not justified if internal relations are not morally justified.

However, the critics of associative duties could notice that characteristics of fairness, non-harm, helping when necessary, equal respect, and similar, should exist not only in intra-civic relationships, but in relationships towards foreigners, too. Thus fulfilling of special associative duties such as loyalty puts non-

⁴ Miller, D. 2005. "Reasonable Partiality towards Compatriots." *Ethical Theory and Moral Practice*, 8, 65.

members in an unequal position. An unwanted consequence of associative duties is that they trump duties to outsiders or in the case of political associative duties they trump duties to anyone who is not a member of our state. The current international order reflects the consequences of giving an advantage to associative duties. The dominance of states belonging to the group of global powers, marginalization of small countries, neocolonialism, exploitation, polluted environment in underdeveloped countries which due to competition are financially unable to protect the environment, etc., are all witnesses of the dominance of partiality and national egoism. Citizens lead by relations of co-belonging might consider as legitimate to give priority to gains and interests of their own co-citizens in comparison to citizens of states in a substantially worse position.

However, there is no contradiction between adhering to general duties mentioned by an anti-associativist and giving advantage to associative duties as long as citizens are capable to evaluate and assess if the position of non-citizens requires duties to be directed at them at the expense of duties towards co-citizens. Just like in the case of the duty of an individual, associations have a moral responsibility if they do not respond to urgent needs of strangers or non-members in situations when persons or associations have means and possibilities to do so. Also, an associativist would claim that in the course of time, at a local level, there can be developed new morally valuable relations with collections of new duties. Just like partiality towards one's own children is better than indifference or the absence of any partiality, it is better if there are local, that is, limited civic duties: it is better to have democratic rights in only one country than not to have these rights at all, just like a state in which there is a redistribution is better than a state without any redistribution whatsoever.

Therefore, when it comes to the legitimacy of citizenship, neither the instrumentalist conception according to which citizens accept a certain order exclusively due to personal gains, nor the one which would announce some special quality of relationships between citizens—e.g. the connection by a common national identity—for the basis of duties, manage to grasp the particular character of the interconnections of citizens, which would provide a legitimate basis for justified political duties. The first conception is based on a mutual advantage, and it has a well-known and widely discussed consequence when people view the principles of justice as temporary, that is, as those which can be dismissed in situations when subjects decided that for their advantage it is better not to follow these principles (and, consequently, not to fulfil civic duties if personal gains cease to exist). The second conception would lead to blur differences between patriotism and nationalism, it would lack standards according to which it could be determined which duties among citizens are legitimate, as well as a lack of criteria for assessment of duties towards co-citizens when confronted with duties towards foreigners. From the perspective of the critical or morally encumbered associativism it could be said that in order to justify duties nations should be valuable communities where relationships must not be

oppressive to members as well as for non-members, and must fulfil conditions of minimal or democratic reciprocity. These conditions are necessary to answer the question "What do citizens owe one another?" that is, to legitimate duties among members of a political community, and between citizen and community as well.

RECIPROCITY AND CIVIC DUTIES

As has been said, legitimate associative duties have to be grounded on reciprocity, whereas reciprocity in its broad basic sense means that certain duties which I have towards you are equal to those you have towards me. This is different from the relationship between the teacher and student, or parental relationships, which are examples of asymmetrical relations in which a person or group has prerogatives over others. The relation of reciprocity, however, cannot be assigned exclusively to the political sphere. As Margaret Moore argued, cooperativity as a reciprocal fair relation exists on an interpersonal level as well: I babysit someone's child, because they babysit my child in other occasion.⁵ In this case, the relevant is fairness, which means persons should not be overburdened or be encumbered unilaterally. Also, of crucial importance is previously enacted common practice. Cooperative duties are established over time, in the course of common activity. Only in the course of practice duties are formed. If I babysit someone's child knowing that it is the first and the last time I am going to do it, it is an act of altruism, but not an act resulted from duty.⁶ This established trust is of great importance for forming civic duties, and citizens will act out of duty only if they consider that their position is not going to alter for the worse, and only if they assume that other citizens have duties as well, which are not necessarily identical with theirs, but have to be justifiable by deliberation.

Strict reciprocity can be applied to civil and political rights, because it is assumed that those rights have to be shared by all citizens equally, and it is illegitimate if some have the rights the other member of society lack. However, the application of this reciprocity is highly problematic with regard to redistribution. Some theoretical positions endorse strict reciprocity arguing that the state

⁵ Moore, M. 2009. "Is Patriotism an Associative Duty?" *Ethics*, 13, 390.

⁶ Moore claims that reciprocity of citizens, nevertheless, does not form associative duties in the sense ascribed by Scheffler, according to which associative duties are grounded on well-being and are derived from the very relationship. Duties from reciprocity, as a substantial part of civic duties, rest on external moral principles, unlike associative duties which have moral reason in the very relationships among persons. There could be a reciprocal relationship even among persons that are not interested in one another. (Moore, M. 2009, op. cit., 389–391.) A similar standpoint, that duties from reciprocity could not be considered as associative duties, is endorsed in: Owens, D. 2012. "The Value of Duty." *Proceedings of the Aristotelian Society Supplementary Volume LXXXVI*, 199–215. However, my account is inclined to the republican view, according to which reciprocal civic duties are intrinsically good as long as they ensure freedom, self-government and the equal status of citizens, values that cannot be reduced either to individual benefit, or to aggregate goods.

should distribute burdens and benefits among members of society evenly, and individuals should gain according to their contribution. In this way, taxation of income, although burdensome for the taxpaying individual, has multiple benefits for society since it provides material resources for projects of common interest, including interest of the taxpayer itself. He benefits directly or indirectly from the principle that everyone is obliged to set aside a share from their income for public goods and common services. Therefore, personal loss is allowed if there is agreement on the degree and fair division of burden, if from personal detriment there ensues certain goods and if everyone is obliged to accept an appropriate share of the burden.⁷

However, the cases of deviation from strict reciprocity can be instantiated where contribution and benefit are not even approximately equal. So-called *gastarbeiters* or guest workers, or persons with work permits make an appreciable contribution to society. However, they often do not receive certain benefits available to other citizens such as voting rights, employment rights or guaranteed medical care. This is a case of an infringement of the principle of mutual benefit as moral legitimacy for demanding of rights, since contribution to society is not valued adequately. Concerning financial distribution, guest workers can be in an equal position to the inhabitants of the country in which they gain their income, nevertheless the restriction of political and social rights makes them persons with full citizenship disparate.⁸

The second objection warns of the consequences resulting from strict reciprocity redistribution. Disabled persons, according to the pattern of proportional contribution and benefit, should not have any opportunity to use common goods, in as much as they do not contribute to the production of those goods. This privation of benefit would affect the long-term unemployed, as well as households supported by tax credits.⁹ The general conviction is, however, that those persons should not be exempt from redistribution, and a strict parity of contribution and benefit would be inhuman, it would significantly aggravate the position of the affected and would have a negative influence on their acceptance as equal citizens.¹⁰

Unlike the previous model, non-strict or loose reciprocity¹¹ can be considered as a crucial constituent of social institutions in the Rawlsian sense. Civic

⁷ It is understood that there are no free riders and those who benefit disproportionately regarding their contribution, as well as privileged persons not participating in burden distribution.

⁸ For the purposes of this discussion it is not relevant whether any restriction of rights is legitimate or illegitimate, but this case is important as an illustration of divergence from the strict appliance of reciprocity to individual rights and duties.

⁹ Tax credits are an allowance for households in which income is below poverty line, and whose revocation the UK government announced as a part of the plan to decrease the budget deficit.

¹⁰ Goodin, R. E. 1988. "What is So Special about Our Fellow Countrymen?" *Ethics*, vol. 98, 4, 677-678.

¹¹ The distinction of strict and loose reciprocity is taken from David Miller. See Miller, D. 1995. *On Nationality*. Oxford: Clarendon Press, 66.

duties become legitimized when cooperativity proceeds under conditions of the institutional practice of reciprocity, assuming the existence of principles of fairness and acceptance of those principles by citizens.¹² The principle of loose reciprocity entails that social duties are more than self-interest based duties, in which the aim of fulfilment is instrumental. Cooperativity implicitly or explicitly relying on fairness is part of the redistributive arrangement: in economic sphere there are those that achieve a lot, and those that are physically, mentally or socially incapable of contributing. However, loose reciprocity as socially sustained solidarity seeks to form conditions in which there are no total losers. At this point another justification of reciprocity can be found—not based on self-interest: it is possible that an achiever has never benefitted from redistribution schemes, however he could assume that he is not deprived if he holds that fair and impartial principles of reciprocity are established and ensured, from which he himself cannot be excluded. Of course, the question here is not what form the redistributive scheme will have and which allotment is optimal—this is a different problem regarding the overall configuration of society, the legal system, cultural background and level of economic development. The basic claim is that non-strict or loose reciprocity is indispensable for demands of justice.

Also, certain reciprocity schemes are indispensable for the possibility of mutuality of citizens in the sense of their “common fate” interconnection, in which political and social actions are comprehended as consolidated in a cooperative scheme. Some authors have pointed to shortcomings of “common fate” as a constituent of commonality. According to Bader, interdependence cannot be the basis of social integration since the slave is dependent on the slaveholder (and vice versa), and consequently they are affiliated by the common fate.¹³ According to this example, it can be argued that, because the slave is kept in a relationship of dependence, he has a moral duty to breach this dependence and cease to be in a cooperative relationship with the master. The members of a family can be dependent on dominant money earning head of the family, and accordingly be in a submissive state, yet we would not approve the assumption that this interconnection entails moral duties. Moreover, common fate does not give any explanation as to why we should be partial to our co-citizens only for the reason that they inhabit the same geographical or political territory and our actions are interconnected in some way. Our activities can also be interwoven with activities of the members of other states, but it does not mean an obligation to assign the same rights and status to citizens and non-citizens.

Concerning Bader’s example, the next question may be asked: in what sense a relationship between the slave and the slaveholder, or between predominant

¹² We might agree with Barry when he argues that reciprocity cannot be a stand-alone principle and it requires a concept of justice. In order for reciprocity to be plausible, we have to incorporate it into a broader theory of justice. Compare: Barry, B. 1995. *Justice as Impartiality*. Oxford: Clarendon Press, 50.

¹³ Bader, V. 2005, op. cit., 91–92.

pater familias and his obedient family members, is a common fate? Whether such relationship is not mere mechanical interdependence, in which the agreement of autonomous individuals on interdependence is not important and where no mutual recognition of individuals as equals exists? The abovementioned cases are examples of reciprocity or mutual dependence for the wrong reasons. The relations of dependence prevalent, for example, in a family are not a model for relations among citizens, and consciousness of the interdependence of citizens is not the awareness of dependence on predominant person or group, but consciousness of interconnectedness in a fair and impartial cooperative scheme based on equal rights, whose outcome is a common good.¹⁴ In this case persons who share the consciousness of interdependence for good reasons can endorse reciprocity.

The second objection does not refer to the moral value of civic associative duties, but to its scope. If, as we have argued, the reciprocity of civic duties can be generated only through morally justified interdependence, this legitimate mutuality can exist between members of different countries as well. However, co-citizens are not affiliated through an accepted system of distribution (they, in a globalized economy, can share it with the citizens of other countries), but through a specific redistributive scheme. Fair distributive arrangements are achieved when people reach agreement on rules they have to follow according to their preferences and interests, while redistributive schemes originate in citizens' deliberations on principles of justice in society. Also, as it has been said, besides redistribution and fairness, there is the reciprocity of political and civil rights which members of society do not share with non-citizens. In addition, the distortion of the reciprocity which could separate citizens with privileges or exclusive rights from others, makes legitimacy of the duties highly contentious, and it can be stated that the citizens does not have duties to society not based on morally justifiable principles.¹⁵

WHOSE ARE OUR ALIENS?

Some theoreticians point out that the only legitimate duties are associative duties which are the product of a citizen's free choice, therefore civic duties are justified only if they have a voluntary character. According to liberal conceptions, it is assumed that duties derived from oppressive and compulsorily im-

¹⁴ Interconnections and mutual dependence could not establish any order at all. Bader argues that conflict-ridden relationships of interdependence by themselves are not enough to form a community, but common practice and establishing of institutions, which should comprise "conflict-regulation" and "conflict-resolution" are indispensable. (Bader, V. 2005, op. cit., 91)

¹⁵ Bader holds a similar view, when he refers to three conditions of existence of particular civic associative duties which give them a special status in relation to general duties: 1. fair institutions for decision-making 2. liberal-democratic culture, along with its habits and customs and 3. fair or just distribution (Bader, V. 2005, op. cit., 94-95).

posed relationships cannot be justified, and those who are the object of oppression do not have moral duties towards system carried oppression. The debate on the problem of voluntary and involuntary duties is extensive and complex, so I will outline only the similarities and distinctive features of duties of friendship and civic duties, the former of which is often emphasized as the paradigm of voluntary duties. Mutual acceptance and the equality of participants in relationship are common features of friendship, and it can be considered as a desirable characteristic of relationships in a political community as well, as opposed to hierarchical and authoritative relationships. The critics of the analogy of duties of friendship and civil duties, however, stress that the former duties based on free will and consent are substantially different from duties in a political community, which include legal compulsion and carry elements of coercion. Apparently, the mostly non-voluntary character of citizenship (excluding naturalisation) makes this analogy of duties dubious. It is not surprising that numerous theoreticians attempt to resolve the discrepancy between non-voluntary citizenship, or coercion to be a citizen and having obligations towards state, and legitimacy of civic duties which should rest on non-compulsory mutuality.¹⁶ All this makes the reconciliation of liberalism and non-voluntary aspects of civil duties a difficult task.

Being in the associative relationship, a considerable numbers of citizens have not an opportunity to choose constitutional arrangements and principles of cooperation, and while in the case of immigrants the acceptance of already adopted conventions is taken for granted, it is not the case with all new generations of the citizens who had not an initial opportunity of choosing the framework in which they had to live. Individuals and groups may find themselves in the condition of unequal treatment of themselves as well as of other individuals and groups. The claim that the duty of the state is to act impartially towards their members is not universally embraced, but the social task is to realize that duty in the course of political process, to achieve impartial and non-oppressive legal and political order.¹⁷ Thus, while in friendship non-domination as basis of duties is inseparable from being a friend, and it emerges along with becoming a friend, in the relationship between state and citizens, as well as in the relationships between citizens, this non-domination has to be established in the course of historical political processes. Also, this constitu-

¹⁶ On the distinction of voluntary and involuntary duties and its liberal overcoming see Scheffler, S. 2001, op. cit., 82–96; Seglow, J. 2010. “Associative Duties and Global Justice,” *Journal of Moral Philosophy*, 7, 54–73; Mason, A. 2000. *Community, Solidarity, and Belonging: Levels of Community and Normative Significance*. Cambridge: Cambridge University Press, 102.

¹⁷ These forms of reinforcing impartiality can vary, they may require a political representation through parties, or grass-roots democracy, the supremacy of judicial review, plurality of organizations in civil society, while the most effective reinforcement of impartiality appeared to be the combination of all those forms.

tional arrangement has to be cultivated, periodically actively supported, and upheld in order to ensure its non-partiality and fairness.¹⁸

The historically formed political process of constituting the impartial cooperative scheme is connected with the next distinctiveness of political duties—indispensability of justification of civil duties in public deliberation, as well as of giving reasons for prioritizing those duties over general duties (other things being equal). The fulfilment of some other associative duties, such as parenthood, is taken for granted, without a need to give reason why parents should be obliged to take care of their children. Friendship also does not need a justification of its duties; the existence of positive relations of trust, honesty etc. between friends is sufficient. On the other hand, persons in civil society have to justify the non-equal treatment of fellow citizens and non-citizens, or compatriots, immigrants and refugees respectively.

As it has been mentioned at the beginning of the article, very connectedness or affiliation, including that in the political sphere, affects duties by giving them a direction, making them concrete and ascribing to them a more substantial “moral weight.” Also, we feel that we are more obliged to fulfil duties if fulfilment is feasible, that is to say, in our domain of ability. We negatively evaluate the violation on human rights or discrimination against minorities in any country, but it is our special responsibility if our citizen is a perpetrator or victim; it is appalling if somebody is starving, but it is our particular concern if it is happening in our country, before our eyes; it is unjust if there are remarkable global socio-economical differences, but if our country is among those with high inequalities, we have a responsibility to ask what kind of social, legal, political and economic system enable these inequalities.

As with other types of associative duties, duties to fellow-citizens could be superseded if the situation requires impartial approach, that is, if the importance of the case is such that duty to non-citizen has primacy. Assigning a moral value to associative duties does not imply that global duties are less significant than local and that the latter ones inevitably trump the former. Also, citizens have negative duties towards non-citizens, so it is not justifiable to violate the basic rights of strangers in order to avoid the violation of the rights of fellow citizens. Avoiding harm to the non-citizen should have the same weight as avoiding the harm of fellow-citizen. It would be wrong to act to prevent the death of fellow citizens from disaster, if, in doing so, the deaths of non-citizens would be caused. Thus, in this case the moral point of view dictates only impartial acting as justifiable.

In contrast with this, the positive duties, such as the redistribution of material resources, can lead to a reasonable favouring of fellow-citizens over non-

¹⁸ Some authors argue for the relevance of citizen’s duties to protect and improve liberal institutions, that is, duties which citizens should fulfill in order to maintain liberal society along with justice and non-domination. See: Lazar, S. 2012. “A Liberal Defence of (Some) Duties to Compatriots.” *Journal of Applied Philosophy*, vol. 27, 3, 8–9.

citizens. It is generally accepted that we are those who have to decide about the welfare and social rights of our fellow-citizens, that is, members of every state should autonomously take care of their common welfare. On a transnational level, security, autonomy and freedom have to be ensured, as well as fair and mutually accepted conditions of trade-off, of protection of basic rights etc. Partiality towards co-citizens has as a consequence a better treatment of co-citizens in relation to non-citizens; this is justifiable by common sense, regarding that every state redistribute the goods produced by their citizens according to needs of the same citizens. Also, every state assigns to citizens certain political and social rights, advocates rights of their own citizens abroad, but not citizens of other countries, etc.¹⁹ Although indifference to suffering, misfortune or the bad position of non-citizens is morally wrong, it is considered that the dominant duty towards them is negative—avoidance of hurt, but not care and improving well-being.

This assumption, widely accepted and admissible from a commonsense point of view, could be morally justified if non-citizens are members of at least minimally institutionally well-ordered communities. But what if this condition is not fulfilled, if non-citizens, such as refugees, are outside any community and without any possibility of realization of the positive duties? Robert Goodin in a convincing way reflects on this problem:

“... it would be wrong for any state to press the claims of its own citizens strongly, to the disadvantage of those who have no advocate in the system; and it would not be wrong [...] for any state to agree to give refugees a home. Both these things follow from the fact that the state’s special responsibility to its own citizens is, at root, derived from the same considerations that underlie its general duty to the refugee.”²⁰

Accordingly, the reason which incites states to protect the interests and claims of their members is that everyone have to have an assigned representative or protector. Goodin concludes that, since refugees do not have a state-protector, or institutions having assigned responsibility, all states are obliged to be protectors and advocates of excluded persons.²¹

¹⁹ This partiality, however, is not unconditional, because we have responsibility for the allocation of resources to a foreign country when it is hit by a major disaster like an earthquake, where otherwise such resources would be used for, e.g., building a highway in our country. Miller notes that in such cases model of priority of urgency might be applied, besides the claim that in distribution of our scarce resources, other things being equal, partiality towards our co-citizen is justifiable. (Miller, *D.* 205, op. cit., 75.)

²⁰ Goodin, R. E. 1988, op. cit., 684–685.

²¹ *Ibid.*, 683–684. Goodin’s argument is valid if we accept, besides assignment responsibility, other sources of associative duties of citizens, such as the abovementioned reciprocity, common cooperative practice etc.

This stance, needless to say, is not universally embraced, nor even widely accepted. Governments, media and intellectual elites find reasons to justify the unequal treatment of members and non-members of the state, in this case the mistreatment of refugees. The first main strategy of legitimization is their classification as economic migrants, whereas reasons for special associative duties towards co-citizens are invoked, such as exclusive assignment of civil rights, discretionary right to redistribution, the warranted security of employment and decent wages for co-citizens etc. However, the decisive factor in the conflict between associative and general duties is the moral content, and, accordingly, importance of the case which is about in directing duties, where personal characteristics and relationships are annulled if it is the case of considerable misfortune which non-members put up with—the urgent and extremely bad position of refugees has this decisive weight. Also, on a factual level, this strategy completely fails, in as much as in majority of recent cases only a small number of migrating persons could be classified as economic migrants, and consequently they require a different treatment and different duties towards them.

The second main strategy of the legitimization of the treatment of foreigners/refugees is cultural justification of partiality. It is assumed that cultural affiliations can ground special duties. Therefore there is no obligation to treat the majority of refugees in the same hospitable way as we treat co-nationals. Moreover, the incompatibility of their and our culture could bring about social clashes and be a threat to civil peace.

Two main objections to this cultural legitimization can be raised. Firstly, this strategy deliberately overlooks that culturally different naturalized persons in the majority of cases accommodate their behaviour and habits to social rules and principles of conduct dominant in their new countries.²² Secondly, the cultural argument may raise doubts whether this is a case of associative duties at all, that is, if and in what sense can cultural or ethnonational relationships justify duties morally.²³ There can be cultural affiliations between the citizens of a particular state and members of national minorities within other countries, and yet they do not share the mutual civil duties which characterize co-citizens. Relationships between co-nationals are grounded on subjective convictions, “imagined” collective values, and, occasionally, fictional events, in contrast with more concrete interconnections between compatriots based on common political practice, reciprocity and mutual responsibility. The unequal treatment of a group of refugees exclusively on the basis of cultural affiliation, that is, on their cultural or confessional characteristics which are perceived as identical to ours, is beyond the scope of non-discriminatory practice in well-ordered states.

²² In this case we mainly deal with liberal societies where the religion and lifestyle is a matter of choice, in so far as it they do not endanger others and are is not in collision with basic principles of justice.

²³ On differences in duties to co-patriots and co-nationals, where only the former are compatible with justified associative duties, see: Moore, M. 2009, op. cit., 383–399.

The flaws of discussed reasons for giving advantages to co-citizens indicate that associative duties toward co-citizens cannot be set as opposed to duties to foreigners/refugees. The strict dichotomy of duties of co-citizens and negative duties to aliens is legitimate only if aliens are members of communities bound by civic duties. As refugees have no choice and cannot bear responsibility for their position, they cannot be treated as immigrants or voluntary aliens. And as refugees do not have institutional structures which could support them, or display positive duties towards them such as special protection and redistribution, it cannot be declared that citizens of the other countries owe them nothing but negative duties. Refugees are deprived of any requirements toward institutions, such as demands for justice or social security, and their status is therefore different from economic or even political immigrants since proponents of particularity of associative duties can object that the immigrants have the possibility—however minimal it might be—for demanding political, social or economical rights from their native states.

As it has been pointed out at the beginning of the article, the justification of duties of association based on moral restrictions is a valid legitimization of associative duties. The case of refugees can be epitomized as an exemplification of this restriction whereas duties to co-citizens cannot have moral priority in relation to duties to refugees.

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