Among theories of consent and fairness, John Rawls claims instead that a natural duty of justice is what warrants obedience to a just political order. Rawls’ natural duty consists of the supporting of and compliance with just institutions when they apply to us in addition to the assistance in establishing just institutions where they do not already exist. Rawls uses these duties to imply that in the case of any just political order, one ought to obey the law, meaning we have a duty to do so. However, based on Rawls’ assumption of the existence of some objective standard of justice, one might believe that we ought to obey only to those institutions which perfectly adhere to the requirements of this objective standard, (yet, perfectly just states are so rare that in reality we would likely have no duty at all). Yet, Rawls seems to be saying that we have a duty to obey institutions that possess justice in part as well. In other words, it appears that Rawls intends for his principle to apply to those institutions which may be just but also have some aspects about them which are unjust. I argue that if Rawls’ principle accounts for this gradient of justice then it seems as though it ought to subsequently allow for a gradient of obligation. Thus it seems that the degree of justice of an institution is directly related to the strength of the duty one has to support and obey it. Due to Rawls’ direct application of the natural duty of justice to the political order, it follows that the gradient of justice and subsequent variation in strength of duty also affect one’s duty to obey the political order. If the political order is not completely aligned with the objective standard of justice, then the strength of one’s obligation to it diminishes, and subsequently leaves room for an inconsistent duty to obey the state. This, perhaps, justifies disobeying a state which does not perfectly embody the objective standard of justice, and can contribute to instances of civil disobedience. Rawls purposefully crafts a very simple principle to outline his natural duty of justice but as a result of this simplicity
leaves a number of questions left unanswered that if considered extensively could have serious implications to the legitimacy of the common political order and its authority.

Rawls introduces a natural duty of justice and uses it as a principle which warrants obedience to the state, assuming it is just. A. John Simmons characterizes the natural duty of justice as follows. “The natural duty of justice binds each member of the political community to support and further the just political institutions of his country” (Simmons, 1979). Simmons generalizes the principle and its implications here as a duty for each member of society to support and obey any political institution that is just. Rawls separates the principle into two parts, and discusses how each part contributes to a resulting duty to obey a just political order Rawls presents the principle of justice in his chapter on duty and obligation.

From the standpoint of a theory of justice, the most important natural duty is that to support and to further just institutions. This duty has two parts: first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves. It follows that if the basic structure of society is just, or as just as it is reasonable to expect in the circumstances, everyone has a natural duty to do what is required of him (Rawls, 1971).

The second part of Rawls’ natural duty of justice is of particular interest. It seems as though the second and first parts of the principle rely upon each other. Once one fulfills the second part of the principle, namely creating a just institution, then the first part of the principle soon applies, that we ought to comply with and do our share in them. It seems as though complying with and doing our share consists in active support of such institutions in addition to obedience. Rawls writes later that, “the existence of institutions involves certain patterns of individual conduct in accordance with publically recognized rules” (Rawls, 1971). Thus, according to Rawls, the existence of institutions essentially relies upon the support and obedience of the people.

Simmons largely takes issue with the first part of the principle, and criticizes Rawls for his lack
of precision when it comes to determining when and how a just institution could apply to someone. In this paper, however, I will raise questions centered on the second part of the principle and essentially identify its implications on the first.

The assumption made throughout this paper and throughout Rawls’ claims is that, similar to most other philosophical discussions that relate to justice, there is a correct, and objective standard of justice. This is true regardless of whether the public has complete knowledge of it or not. With this being said, the institutions that Rawls describes as being just should only be characterized as so when they meet every criterion of the objective standard of justice. Subsequently, when institutions do not meet every criterion of the objective standard, they cannot be considered to be completely just, but rather they should be categorized as, mostly just, almost just, slightly just, etc. This gradient is something Rawls leaves out in his discussion of the natural duty of justice but ought to have included because of the sheer rarity that any institution would completely adhere to the objective standard of justice. Rawls also opts not to mention, however, that this gradient of justice is likely to exist among the institutions he speaks of. This is not to say, however, that failure to adhere completely to the objective standard makes the institution unjust. It is possible that an institution does meet some of the standards of objective justice, making it almost just, or mostly just. Thus, it seems that for an institution to be considered just, it should wholeheartedly meet the objective standard. However, this does not imply that all just institutions will look the same or provide the same services. For example, if the objective standard of justice in a particular case was to aid those who are in need in an equal way and not to show preference, two institutions could meet this objective standard in two different ways. If one institution were to provide each person with $100,000, this would meet the standard, because each person is receiving equal aid. Another institution, however, could provide
each person with $10,000 and still meet the objective standard of justice, because everyone still receives an equal amount of aid from the institution. Thus, so long as the objective standard of justice is entirely met, then a just institution can exist in a variety of ways, in addition to the institutions that do not fully meet the criteria which are subsequently considered mostly just.

This gradient of justice can be applied to Rawls’ principle. The principle says that we ought to assist in the establishment of just institutions where they do not already exist. As has been established above, Rawls assumes the existence of some objective standard of justice. Thus, do we have a duty to assist in the establishment of only perfectly just institutions, in other words only those institutions that will fully align with the objective standard of justice? Or, does our duty to establish these institutions also exist on a gradient scale just as justice does? It remains unclear which stance Rawls would take on this issue but it seems as though he would likely adhere to the latter, primarily because it would be extremely rare that an institution aligns entirely with the objective standard of justice. In other words, because we as a society have been largely unable to realize this objective standard of justice, it seems almost impossible that we could create institutions that align with it, and subsequently, if Rawls were to claim that we only have a duty to help establish those institutions which are perfectly just, it appears as though we would almost never have such a duty. Thus, it seems safe to assume that Rawls would argue that the duty exists even when the institution does not fully adhere to the objective standard of justice. However, it seems that the strength of the duty should diminish as the degree of justice within the institution also diminishes. Realistically, how could Rawls make the case that no matter where an institution falls on the scale of justice we still have a strong duty to help establish them? This would require Rawls to concede that when an institution does things which are both just and unjust, we would have to assist in the establishment of, support, and obey such
institutions to the fullest extent of our capabilities. Moreover, if there were some institution that performed both just and unjust actions, but according to the objective standard of justice was just slightly more just that it was unjust, it seems wrong to say that one has a duty to obey such an institution that is the same strength as the duty one would have to obey an institution which is perfectly just, and contains no unjust elements at all. Thus, it seems that the strength of one’s duty to institutions must co-vary with the degree of justice of those institutions. In other words, the more closely the institution which will be established adheres to the objective standard of justice, the stronger one’s obligation is to assist in the establishment of it, and vice versa. The degree of justice of the to be established institution essentially dictates the degree of the obligation one has in establishing it. Therefore, if the institution that will be established is only minimally just, then it follows that the obligation one has in establishing it should decrease in strength. As a result of a low gradient of justice, the duty for one to perhaps provide funding for or even simply publicly promote an institution (all things that would help in establishment of it) would be a weak one. An example of this could be the IRS. Although Rawls discusses the justice of political institutions, it seems as though the justness of a political institution is determined by the justness of its parts, which include programs and organizations such as the IRS. This is no different than when we pass judgement on the virtue of a human, we judge the virtue of others based on their actions, and their character traits, which are parts that contribute to the virtue of the person as a whole. Thus, the justness of institutions such as the IRS inevitably contribute to the justness of the political institution as a whole and is thus relevant to Rawls’ argument. The IRS could be considered only partially just because although taxes allow for programs such as food stamps and contribute to education and infrastructure, taxation is not applied equally, the rich are taxed more than the poor simply because they earn more. One’s obligation to assist in
the establishment of this institution would be relative to its justice. Therefore, one’s duty to help establish this institution, would not be a perfect duty, which raises the question of what an imperfect obligation to an institution looks like, must one pay taxes only sometimes because the IRS is only partially just?

The second part of Rawls’ principle implies that once the institution has been established, so long as it remains just, we also have a duty to support it. This is where the second part of the principle contributes to the first. Thus, the variation in duty applies not only to the establishment of the institutions (part two of the principle) but also the support of such institutions thereafter (part one of the principle). Here again, the strength of one’s duty correlates to the degree of justice of the institution. Thus, based on the claims made above, it would follow that the extent to which one supports such institutions is relative to the degree of justice. Just as the extent to which one helps establish a just institution depends on how just the institution will be, so too does the extent to which one supports a just institution rest upon how just the institution is. For example, if we return to previous examples, one’s duty to support the IRS varies as a result of the variation of justice for such institutions. In other words, one’s duty is not a perfect one, but rather coincides directly with the degree of justice of the institution.

The question now to be raised is what an imperfect duty looks like. If one’s obligation to an institution is not perfect as a result of its imperfect degree of justice, then what do their diminished efforts look like in terms of establishment and support of these institutions? Rawls is explicit in saying that the natural duty of justice is intended to function as an argument for obedience to the state. Rawls claims that so long as the structure of society is just, everyone has a natural duty to do that which is required of them. Just as justice, however, has been shown to be inconsistent within these institutions and subsequently within the state, obligation to these just
institutions is also inconsistent, and so based on Rawls’ connection, the obedience we owe to the state becomes inconsistent as well. Thus, not only is Rawls’ principle affected by the gradient of justice and duty, but because Rawls links his principle to obedience of the state, this duty is also affected. One’s duty to obey the state and its institutions seems to be the most logical vehicle to illustrate the limited duty which has been previously discussed. When a less than perfectly just institution exists and as a result of its limited justice one does not owe to it their full support, the most sensible way to exercise one’s partial duty to support or obey such institutions or the state as a whole would be to establish, support, or obey only those aspects which adhere to the objective standard of justice. Although it has been established that as individuals it would be rare for one to have complete knowledge of the objective standard of justice, recognizing those aspects which undermine the objective standard proves to be much easier. The course of action that would ensue after recognition that the natural duty of justice is an inconsistent one, would be to identify the parts of the institution or the parts of the state that are unjust and reject those parts while still establishing, supporting, and obeying those parts which align with the objective standard of justice. When discussing the state as a whole, one would have the ability to look at particular institutions, or particular laws and determine which are consistent with the objective standard of justice and which are not. For example, President Trump’s travel ban may be considered to be unjust, thus an individual would not owe their obedience to it and may permissibly disobey. Similarly, when discussing the principle specifically rather than its implications on obedience to the state it remains true that if an institution is deemed not to adhere to the objective standard of justice then an individual is not required to do everything in his power to aid in establishing it and once it exists the individual would not do everything in his power to support it. Rawls writes that “given the value of a public and effective sense of justice,
it is important that the principle defining the duties of individuals be simple and clear, and that it
insure the stability of just arrangements” (Rawls, 1971). Rawls says here that a public sense of
justice is important when considering the natural duty of justice and that it is this common
conception along with a definition of the corresponding duty that ensures the stability of just
institutions. However, given that there is a gradient of justice, and a subsequent gradient of
support and obedience, Rawls’ principle fails to do just what he set out to achieve, which is to
ensure the stability of just arrangements through obedience, when in reality he has actually
neglected to make the principle specific enough to avoid justified disobedience.

In the scenario described above, when individuals identify those institutions and laws
which undermine the objective standard of justice and will thus be likely to engage in civil
disobedience, which will be justified given the fact that those institutions or laws which the
individual chooses to disobey will be considered not fully just at best or potentially even unjust.
In this situation, Rawls’ principle and its implications are actually conducive to disobedience of
the state because it provides rationale for the individual to disobey unjust institutions and laws.

Rawls’ natural duty of justice aims to create a duty for citizens which helps to ensure the
stability of just political orders. Rawls explicitly states that he endeavored to create a simple
principle which is made clear to the public. However, it appears as though Rawls has created a
principle which is too simple. The second part of Rawls’ principle in particular goes largely
uncontested among other philosophers but in reality, when examined carefully, Rawls’ reliance
upon an objective standard of justice implies that a gradient of justice exists, because it seems
implausible for a significant number of institutions to fit the perfect standard. Furthermore,
where there is a gradient of justice, according to Rawls’ principle it seems so that there is also a
gradient in our duty to those institutions which are somewhere on the scale of justice. In other
words, the strength of one’s duty to an institution is correlational to the degree of justice of that institution. All of this being so, it is then important to determine the effects of the argument given above in regards to the original implications of Rawls’ principle, namely that the principle creates a duty for people to obey a just political order. Similar to the application of the principle to institutions, it seems as though once again the strength of one’s duty to obey the political order correlates with the degree to which the political order is just. A generalization of this fact would say that the less just a particular regime or political order is, the weaker our obligation to it, and the more just a particular regime or political order, the stronger our obligation to it is. Rawls, however, never makes this claim. It remains unclear from his principle whether he would agree to this conclusion or not, which is precisely why the principle is too simple, or at least Rawls’ explanation of it is too thin. Further implications of the principle arise when one considers what a weak obligation to a political order looks like. As is evident from the argument I made previously in the paper, it seems as though the logical thing to do would be to disobey those laws that are particularly unjust, or at least those that do not align with the objective standard of justice. This proves extremely problematic for almost every political order, due to the fact that it seems unlikely that any political order could adhere entirely to the objective standard of justice. Thus, most political orders will not be entirely legitimate, and could experience justified disobedience (or civil disobedience) of some of their laws which do not align with the objective standard. Thus, the implications of a simple gradient of justice run deep. Rawls’ principle leaves a significant portion of its applicability open to interpretation, and when examined extensively it appears as though his principle could eventually result in justified disobedience of the state, which directly combats the purpose of the principle entirely. The question of a gradient of justice and subsequently one of obligation is one that Rawls really ought to respond to, largely because
of its implications which have been discussed at length. At face value Rawls’ principle seems adequate, though its simplicity is quite deceiving because in reality Rawls leaves a lot of important questions unanswered.
Works Cited
