AUTHORITY AND JUSTIFICATION:
THE CASE OF THOMAS HOBBES

by

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B.A., Simon Fraser University, 1992

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF

THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in

THE FACULTY OF GRADUATE STUDIES

(Department of Political Science)

We accept this thesis as conforming
to the required standard

THE UNIVERSITY OF BRITISH COLUMBIA

October 1994

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ABSTRACT

This thesis reviews the concept of authority in general and critically examines the justification for authority offered by Hobbes. The first chapter aims to develop a particular conception of authority based on a distinction drawn by Joseph Raz between first and second order reasons for action. This conception construes the suspension of judgement that obedience to authority is typically said to entail in terms of binding second order reasons for action which serve to pre-empt individuals' contrary first order reasons. On this view, authority consists in the right to issue and enforce such second order reasons, or laws. In the second chapter Hobbes's justification for authority is considered. The theory is presented in its own right before Hobbes's conclusions are examined in light of the above mentioned conception of authority. This examination reveals an inconsistency in Hobbes's theory with respect to the right to rule. Hobbes's understands this right as the unimpeded natural right of the sovereign, however, the argument is here submitted that insofar as it entails enforcement of a system of second order reasons, the right to rule is unlike any right that could exist in the state of nature. Insofar as it entails a right to enforce punitive sanctions for violations of authoritative second order reasons for action the right to rule is essentially a new right. In concluding, the theoretical implications of this inconsistency in Hobbes are considered and the suggestion is made that Hobbes's normative assumptions better support a "service conception" of government than his own right-based conception.
# TABLE OF CONTENTS

Abstract ii

Table of Contents iii

Introduction 1

Chapter One: The Nature and Problem of Authority 4

Chapter Two: The Justification of Authority in Hobbes 33

Conclusion 75

Bibliography 78
The foundational question of political philosophy is on what grounds one human being may be bound to obey another. The correlated concepts of obligation and authority are thus at the very heart of the discipline. Obedience to authority is owed in respect of the right to rule, and it is the enjoyment of this right which distinguishes political authorities from other force-wielding groups or individuals who may make behavioural demands. Thus, the central normative concern of political philosophers is the justification of the right to rule. In the second chapter of this thesis we will consider one of the most (in)famous attempts at such a justification, the theory of Thomas Hobbes. First, however, we will examine the concept of authority in its own right in an effort to develop a concrete conception of authority to facilitate the later critique of Hobbes.

Chapter one begins by considering the place of authority in the state and proceeds to introduce several important terminological distinctions with respect to authority. A distinction owing to Joseph Raz between first and second order reasons for action is then employed to conceptually express the binding character of legitimate authority. This conception is further developed in a discussion of the “surrender of judgement” and the “content-independent commitment” which are said to be entailed by legitimate authority. The balance of the chapter is spent considering the rational and moral
conundrums that the concept of authority raises. The treatment of the related moral problems is undertaken in the form of a critique of Robert Paul Wolff’s *In Defense of Anarchism*. The chapter ends with the conclusion that the concept of authority is rationally and morally coherent but requires justification in virtue of the threat it poses to autonomy.

Chapter two examines Hobbes’s attempted justification of authority. We begin by considering the psychological egoism and consequent ethical pluralism to which Hobbes’s ultimately ascribes the need for political authority. In this connection it is observed that Hobbes’s rejection of the concept of absolute moral truth left him without any obvious means of making his own theory morally compelling. The innovative theory of natural rights developed by Hugo Grotius (which posits a universal right of self-preservation) to which Hobbes appealed in dealing with this problem is consequently examined. Having established the moral basis of Hobbes’s theory, we turn to consider his theory more generally. Hobbes’s case for authority is presented and its conclusions are examined in light of the conception of authority developed in chapter one. This examination reveals an inconsistency in Hobbes’s theory with respect to the right to rule. Hobbes views this right as the unimpeded natural right of the sovereign, however, the argument is here developed that to the degree that it entails the right to enforce a system of authoritative second order reasons the right to rule is unlike anything that could exist in the state of nature. The
administration of justice, it is claimed, gives rise to a new kind of right. The chapter ends with an attempt to show that Hobbes’s view of the right to rule yields a conception of government as such which is difficult to square with Hobbes’s own normative assumptions. In closing, the suggestion is made that Hobbes might more consistently have adopted a “service conception” of government (whereby authority is justified immediately in terms of benefits conferred on subjects), but was prevented from doing so by the urgency of his situation.

A brief conclusion re-examines the theoretical implications of Hobbes’s conception of the right to rule and indicates how in appropriate circumstances the substantive character of the right that might be justified in terms of the service conception of government would resemble that which Hobbes sought to justify in terms of a transfer of rights. Finally, an open question is posed whether Hobbes recognised this coincidence and purposefully chose to couch his theory in more stringent terms, or simply failed to realise the problems involved in theorising the right to rule in terms of a transfer of natural rights.
1 The Nature and Problem of Authority

Textbooks of political science in their efforts to define the state occasionally invoke the Weberian criterion of a "monopoly of legitimate force."\textsuperscript{1} The claim, of course, is not that the state is alone in enlisting force in pursuit of its ends, for many parties within and outside the state also adopt such means; bank robbers and Mafia hit men, to take a couple of obvious examples, employ force no less than policemen and executioners do. Hence, it is not the use of force but the legitimate use of force that is alleged to be the exclusive domain of the state. In order to exclude private appeals to force such as that of a bank robber or a hit man, this criterion of legitimacy at a minimum must require that force be administered institutionally and in pursuit of public ends. Even acknowledging this qualification, however, a definition of the state construed purely in terms of the legitimate use of force seems unequal to its task.

It has long been accepted that all necessary means are legitimate in acts of self-defence; and from the very nature of such acts it is obvious that these means include force. There is no convincing argument to be made that an act of self defence is other than a private act undertaken for the defendant's own sake, and it would be patent absurdity to suppose that in undertaking such an act a defendant

were automatically transformed into an agent of the state. If private appeals to force such as that made in an act of self-defence are legitimate however, the state can hardly be defined in terms of the alleged monopoly it enjoys in that regard. If we are to find a distinguishing characteristic of the state therefore, we must look beyond the legitimate use of force.

A definition of the state which depends on a monopoly of legitimate force is untenable on account of the state’s inability to achieve the said monopoly.² It is the emphasis on legitimacy, however, rather than force that is responsible for this theoretical shortcoming. Determinations of legitimacy are made in respect of adequate grounds for justification. We have seen how, in light of the traditional strong presumption in favour of self-preservation, fixing on legitimate force as the criterion of statehood renders one unable to narrow the relevant class of agents to include only states. Despite this ultimate failure, however, the attempt to characterise the state in terms of force is not ill-founded. Indeed, were a definition to specify not merely that the force in question be legitimate but that it be justified in terms of specific conditions, one might successfully single out states in this way. The conditions in question are those which are required for the justification of

² In Weber's own mind, the relevant monopoly was not of the use of legitimate force, but rather of the capacity to determine in any given case the legitimacy of force. Thus, "the use of force is regarded as legitimate only so far as it is either permitted by the state, or prescribed by it" (loc. cit.). However, even on this reading it is not clear that such a monopoly exists. In the next chapter we will consider the theory of Hobbes, who maintains that the legitimacy of self-defence is independent of the state, and hence that nothing the state might do can affect its legitimacy.
authority, for it is here that the state's uniqueness lies. The state is privileged not in the legitimate use of force but rather in its *authoritative* use. We have seen that under certain circumstances individuals might use force legitimately, but (*qua* individuals) they cannot use it authoritatively. Thus it is in the authoritative use of force, rather than the legitimate use, that we find the distinguishing characteristic of the state.

What exactly is authority, then, that a state might be said to enjoy it in respect to the use of force whereas a self-defending individual does not? Like the concept of law with which it is intertwined, authority does not lend itself to conventional definition. It has recently been remarked that an “explanation of authority is not an attempt to state the meaning of a word. It is a discussion of a concept which is deeply embedded in the philosophical and political traditions of our culture.”

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3 The case of domestic punishment raises interesting questions in this regard. For do not individuals use force authoritatively in disciplining their children? While it is indisputable that parents act with authority over their children and quite likely that the related entitlements extend to the administration of corporeal punishments, it is important to realise that a parent’s authority vests not in the individual proper, but in the office of guardian which he or she fills. (Cf. Weber, *ibid.*, pp. 302-329, for a discussion of the relation between “offices” and authority.) This fact explains how with the dissolution of that office upon the child’s coming of age the erstwhile entitlements cease. Even allowing that individuals *per se* cannot authoritatively employ force, however, the fact that guardians *can* might appear to lead us back where we began, in that we are unable uniquely to distinguish the class of states by appealing to the authoritative use of force as a criterion. It will be appreciated, however, that guardianship is a special case since any single guardian exercises authority over only a few specific individuals and these latter are not in full possession of their rational faculties. The uniqueness of the state consists in the fact that it exercises authoritative force generally, over the large numbers of mature and rational human beings who find themselves within a certain territorial domain.

so far as we are to examine these traditions in what follows, this entire essay represents an attempt at such an explanation. There are however a few general points which might be made by way of introduction.

The word “authority” is typically used to designate either a particular sort of agent (person, government, etc.) or the capacity that such an agent possesses in virtue of its relation to others. The present distinction is the rather obvious one between having authority and being an authority which is unlikely to cause much confusion. A second significant distinction is that between theoretical authority and political authority. The former of these pertains to special expertise; it is the authority possessed by those who through study or experience are especially knowledgeable in a particular area. And of course one who attains to such knowledge is an authority in that field. Beyond one brief reference in comparison, however, in what follows we will have nothing to say about theoretical authority as our primary concern is with authority in the political sense.

It is customary to distinguish between two kinds of political authority: de facto and de jure. De jure authority, which is the archetype to which de facto authority pretends, is based on a right to rule. This right is correlated to an obligation to obey on the part of those subject to the authority. It is not enough that subjects

simply do obey in order for de jure authority to exist, for this they might do for reasons unrelated to obligation. Indeed, it is not enough that the subjects' obedience constitute for them a normative necessity. I might obey the commands of a hostage taker who threatens to kill innocent people unless I comply with his wishes. Such obedience might be based on a moral duty to preserve innocent human life. But from the fact that I am normatively bound to obey the commands of the hostage taker it does not follow that he or she is related to me in the way of a de jure authority. De jure authority requires not simply that obedience be normatively grounded, but that it be so grounded in respect of a right to rule. Clearly, a hostage taker enjoys no such right.

A related terminological convention contrasts authorities or governments with respect to their legitimacy or illegitimacy. A government which rules by right it is said to be legitimate, and is cast in opposition to that of a mere de facto authority, which rules without right. It is sometimes said of such illegitimate governments that they possess not authority but power. The crucial difference between them, however, is that whereas an illegitimate government may oblige its subjects to obey, the subjects of a legitimate government are obligated to obey in virtue of the latter's right to rule.
To be obligated by a legitimate authority is to be bound to obey, where the relevant modal character of "to bind" is one of normative necessity. One might equally be said to be bound to obey a de facto authority, but what in that case would be meant is that there exists a system of punitive sanctions for disobedience. Were one prepared to accept these sanctions as an acceptable price to pay for the violation of their conditions, it would make sense to say that one were not bound to obey. In disobeying a legitimate authority, however, one's error is normative as well as juridical; and in so far as the relevant normative bonds are independent of individuals' desires, individuals may be said to be bound categorically by legitimate authority.

We might express the binding character of legitimate authority in terms of its providing sufficient reasons for action. The fact that a particular action has been forbidden or enjoined by a legitimate authority in itself provides a sufficient reason for either abstaining from or committing that action (as the case may be), and one which cannot be negated by any number of contrary reasons. Joseph Raz has thus characterised authoritative directives "pre-emptive" reasons for action. Raz denies that authoritative directives are simply further reasons to be balanced against other reasons in the course of practical deliberation. Indeed, by calling them pre-emptive Raz implies that these reasons have no "weight" at all. Authoritative

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directives, he says, function not by outweighing other reasons for action but by pre-empting activity of balancing altogether.

Raz's position rests on a distinction he draws between first order and second order reasons. First order reasons comprise those hopes, needs, desires, fears, ideals &c., according to which individuals make and follow their life plans. Conflicts among reasons at this level are resolved through comparing the relative merits of the inconsistent reasons and forsaking those which are less valuable from the perspective of one's overall plan. This weighing of first order reasons is what is meant by practical deliberation. Second order reasons, by contrast, are reasons for acting for or against the balance of first order reasons. The constitutive mark of such reasons is the fact of their determining the enabling or disabling conditions of an action on first order reasons; thus these second order reasons may be express or inadvertent. Given that it is capable of preventing one from doing what one had decided to do on the balance of first order reasons, forgetfulness, for example, may be a second order reason for action. The second order reasons which are most relevant to the present discussion, however, are express.

In light of their ability to defeat individuals' action on first order reasons we might borrow a familiar conception from Rawls to say that second order reasons have

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lexicographic priority over first order reasons. That is, action on first order reasons follows only where there is no second order reason that prevents it. Raz construes authoritative directives as second order reasons which, in supplanting individuals’ sundry first order reasons for action, serve to induce closure in areas of social life where a high degree of compliance is required. By rendering first order reasons irrelevant to individuals’ action in these areas second order reasons make possible complex forms of social co-ordination. The simple example of a rule-governed game will help to illustrate Raz’s conception of pre-emptive second order reasons.

By calling a foul, a referee does not tip the balance of first order reasons one way or another. Were this the case the call might be overridden by adducing enough contrary reasons; but an official’s call is unimpeachable. Following Raz we might say that the referee’s judgement generates a second order reason which renders otiose further discussion of first order reasons pertaining to that matter. Players’ are henceforth bound to conform to the official’s decision irrespective of the background conditions against which it was made. As a second order reason, the official’s call makes extraneous to player’s actions all related reasons but for the call itself.

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8 Were a referee to make a series of arbitrary or very bad calls, the legitimacy of that person’s authority with respect to that game would be placed in question. In such a situation things might very well reach a point at which the players refused to play the game any longer. The analogy here of course is with revolution; but insofar as revolution is a function of the exercise of illegitimate authority, it lies beyond the scope of our present concern which is to develop an understanding of authority in the legitimate, or de jure sense of the word.
The possibility of such self-subsisting reasons for action brings us to a second important feature of legitimate authority, which relates to the content of authoritative directives. In the preceding example players are bound to accept the referee’s call of foul as a reason for their action. They would be no less bound to accept it, however, had the call been fair. The fact that players are equally bound by either one of these mutually inconsistent judgements shows that the referee’s call binds not in virtue of its substance, but rather of its provenance. So it is with (legitimate) authoritative directives in general. Such utterances differ from attempts to persuade or advise by requiring that they be followed independently of any special likelihood that they embody the “right” conclusions. Thus H. L. A. Hart has referred to authoritative directives as “content-independent” reasons for action;\(^9\) reasons, that is, whose force is due not to their conditions but to the source from which they proceed. Thus, the will of a legitimate authority is viewed as sufficient to bind subjects to obedience independently of the particular directives in terms of which it is expressed.

The idea that obedience to authority requires a surrender of judgement on the part of those who obey has been a recurring theme in political philosophy. In the present analysis we have expressed this idea in terms of the pre-emption of

individuals' first order reasons for action. For our purposes, judgement may be viewed as reflecting a person's balance of first order reasons. Obedience then is action which ensues from a surrender of personal judgement in respect of the preemptive directives of a legitimate authority. Emphasising this separation between judgement and obedience casts light on two further aspects of authority. First, given the dependence of obedience on a surrender of first order judgement, it is clear that not all actions which accord with authoritative directives are at the same time instances of obedience. Thus, one cannot infer merely from the fact that someone does not disobey the law that therefore he obeys it. And second, this separation reveals the non-voluntary nature of all acts of obedience. Let us consider these points in turn.

By acting on the balance of their first order reasons most people will not commit murder. In so far as this is the case the fact that murder is authoritatively prohibited never affects their practical deliberations. Thus, in refraining from murder these people act on first order rather than second order reasons, and given that it entails no suspension of judgement, this exercise of restraint does not have the character of obedience. One contemporary student of political authority has emphasised the importance of a surrender of judgement to the concept of obedience by drawing a distinction in terms of motivation between action which merely coincides with the conditions of authoritative directives and action which
constitutes obedience to those directives. He observes: "Obedience is not a matter of doing what someone tells you to do. It is a matter of doing what he tells you to do because he tells you to do it."\(^{10}\) This point might be cast in Raz’s terms by stating that obedience cannot follow from first order, but only from second order reasons. Furthermore, the surrender of judgement entailed in action on second order reasons affects the voluntary status of those actions. To see how this surrender affects the voluntary character of obedience let us look at the otherwise largely parallel phenomena of charity and taxation.

Empirically, a charitable donation and a payment of taxes might very well be equivalent, that is, the same amount of money might be given in both instances and it might produce the same amount of benefit in the world. Normatively however these are very different actions. The grounds of this difference lie in the separate relation in which each act stands to the judgement of the individual who commits it. A charitable donation follows directly from the judgement of the donor and hence is a voluntary action. The obligatory payment of taxes, however, follows from pre-emptive reasons of the state. Action on these reasons entails a surrender of judgement on the part of the payee, and the consequent separation between an individual’s judgement and his or her action in this regard makes the payment of taxes a non-voluntary act of obedience.

The central characteristic of a voluntary action is the fact that it is freely chosen.

We may skirt the difficult questions relating to the requisite range of this freedom by limiting ourselves to the claim that all freely chosen acts must follow from first order reasons. Voluntary action is inconsistent with second order reasons, both of the express and the inadvertent kind. By mistaking the day of the week, for example, I do not voluntarily miss the concert I had planned to attend. Nor is my action any more voluntary in obeying the directives of a legitimate authority.\(^{11}\)

Voluntary acts must be willed by the individuals who commit them. The preceding analysis has shown however that the directives of a legitimate authority pre-empt the individual’s own judgement with reasons willed from without. By obeying such an authority individuals take its will and not their own as the reason for their actions. Acts of obedience therefore cannot be voluntary in nature.

The non-voluntary character of obedience of course affects the moral standing of such actions. Most significantly, the fact of their proceeding from second order reasons means that they are unfit objects for praise or blame. Consider the forgoing comparison. In making a charitable donation a donor weighs relevant

\(^{11}\) I do not mean to deny that one can either voluntarily or involuntarily comply with second order reasons in the form of legitimate authoritative directives. But such adverbial voluntariness is not sufficient to allow us properly to call those actions voluntary so long as they are based on second order reasons. Actions which merely coincide with the conditions required by authoritative directives (such as the murder example above) but proceed from individuals’ first order reasons of course may be voluntary, but that is a different matter.
claims with respect to some case and decides on their merits that assistance is warranted. Deriving from the free exercise of a donor's judgement, the donation is a kind of self-expression and he or she might rightly be credited or blamed for it. The payment of taxes, by contrast, has nothing to do with citizens' approving of the related disbursements. Taxes are a content-independent commitment paid in respect of an authoritative directive of the state. Being thus determined, the individual's payment of taxes is a matter of moral indifference to that person. By parity of reasoning this conclusion applies to acts of obedience in general.

Let us pause for a moment to recap our findings with respect to legitimate authority. Such authority, we have seen, derives from a right to rule and is characterised by a power to require action. This power is exercised through the issuance of authoritative directives engendering "second order" reasons for action which pre-empt whatever reasons individuals might independently have that are inconsistent with the conditions of those directives. Because their force derives from the issuing authority and not from the conditions that they embody these directives have been called "content-independent" reasons for action. Obedience to an authority with power to pre-empt one's first order reasons for action is commonly said to involve a surrender of judgement, and acts proceeding from such a surrender have been said to be morally indifferent to the individual who commits
them. With this basic sketch of authority before us let us return more closely to examine a couple of important aspects.

Nothing has been said to this point concerning the possibility of limits with respect to what may count as “content” in a content-independent reason for action. This silence does not reflect an absence of such limitations. Formally of course content-independent reasons are limitless, but insofar as such reasons may be embodied by the directives of any actual authority they will indeed be bounded. The nature of this limitation may be observed by considering the previous example of the referee in a rule-governed game.

Because it binds on account of its source rather than its substance, the call of the referee constitutes a content-independent reason for action. Irrespective of their particular judgements concerning the matter in question, the players must take the referee’s call as the basis for their action. This is not to say, however, that the referee’s judgement binds the players absolutely, that is, in complete disregard of its content. A player would not be compelled to accept the referee’s judgement, for example, were this latter to try to assess a penalty in respect of the former’s bad haircut. The rules of the game give a referee no authority in matters of personal hygiene, and hence he or she can issue no binding directives in that regard. Any
attempt to do so would sacrifice whatever legitimate authority the referee might otherwise have enjoyed.

The power to impose content-independent reasons pertains to legitimate authority. It follows that any action which impugns such authority also undermines that power. The content of content-independent reasons for action is thus limited indirectly by the necessary conditions of legitimate authority. Of course, these conditions will be much harder to determine in the case of political authority than in that of a rule-governed game. However, an analogy can be drawn with respect to this determination between the constitution of a state (written or unwritten) and the rule book in such a game.\(^{12}\)

Also in need of further scrutiny is the idea that obedience depends on a surrender of judgement. This metaphor is as strong as it is ambiguous, and misunderstanding it can jeopardise our entire understanding of legitimate authority. The danger lies in taking an overly literal interpretation of this surrender. The mention of a surrender of judgement is most likely to call to mind some form of psychotic derangement, either the sort of thing that happens in a fit of passion (only later to be regretted), or else as the result of some advanced pathological state. In thus surrendering their judgement individuals become attitudinally disconnected from

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\(^{12}\) States, of course, are far too complex a social institution for this analogy to be anything more than suggestive.
their own actions and all that goes on around them. Similarly, it might be thought, in obedience to authority individuals slip into a state of mindless subservience, blindly following commands. To view the matter in this way however is to abuse a potentially useful image.

We have seen that obedience is action on authoritative, second order reasons. In acting on such reasons individuals must forgo whatever inconsistent first order reasons they might have. Herein lies the "surrender" on which obedience depends. It is not judgement part and parcel that is surrendered in obedience to authority, then, but only certain reasons for action. Most of the faculties that we associate with judgement survive this surrender. Most importantly perhaps, individuals' attitudes towards this surrender are not sacrificed by the simple fact of their obedience. Individuals thus are able to retain a critical distance from the authorities they obey.

Obedience is based on a behavioural rather than a dispositional criterion, and individuals can fully meet their obligations in this regard while disagreeing with the directives that they follow. To return (one last time) to our earlier example, a

13 In so far as obedience is an aspect of one's normative obligation to legitimate authority the following remarks of A. John Simmons are apposite. "We would have a great deal of difficulty in making sense of a duty or obligation to feel a certain way. Moral requirements are generally supposed to range over our actions; having certain feelings (or experiencing certain emotions) seems inappropriate as the content of a moral requirement." Moral Principles and Political Obligations, (Princeton, Princeton University Press 1979), pp. 166-7.
player need not agree with the call that has been made in order to discharge his or her duty to obey the referee. Taking the call as a reason for action is entirely sufficient. Because the required suspension of judgement leaves one's critical faculties intact, obedience to authority is not mere subservience.\textsuperscript{14} To claim that obedience requires a suspension of judgement then is really another way of stating that individuals' acceptance of authoritative directives as reasons for their actions is not conditional on their understanding and/or agreeing with their conditions (beyond being sure that they are compatible with legitimate authority).\textsuperscript{15} Reading anything more into the concept of a surrender of judgement is to succumb to a poetic image.

Even thus qualified, however, the notions of a surrender of judgement and content-independent reasons remain extremely troubling. This concern is ultimately due to the separation between belief and action which both concepts presuppose. This separation, which is the result of binding second order reasons, is the central normative issue of authority. It is on its account that authority is deemed to be a fitting subject for justification; and all of the moral and rational conundrums that

\textsuperscript{14} A failure clearly to distinguish in terms of obedience between the outward conformity of action and the inward mental states of individuals accounts for the uneasiness many have felt reading Rousseau on the general will.

\textsuperscript{15} Construing obedience to authoritative directives as conditional on the acceptance of those directives as the sort that could be issued by a legitimate authority might appear to open the door to the undoing of authority relations altogether. However, in any actual case the degree of uncertainty that is thereby injected is unlikely to be fatal. Once established, the marks of legitimacy are apt to be readily identifiable and within such bounds authoritative directives will be immune to challenge. Of course periods of rapid normative transition will have a destabilising effect on authority, but once a new working consensus emerges authority will again become stable.
arise in that regard can be traced back to this beginning. The sort of moral peculiarities that this separation entails have already been hinted at in remarking that acts of obedience are morally indifferent with respect to the individuals who commit them. The separation of action from belief is as much an issue of rationality as it is of responsibility, however, and these former aspects must also be considered. Indeed, the rational problems with authority promise to be formidable as the concepts of obedience and rationality appear directly to conflict.

Part of what is meant by saying that someone is rational is that he or she acts on appropriate reasons. Acting on such reasons is not a sufficient proof of rationality, however, for (with help) children or lunatics also might act appropriately. What causes these latter to be less than rational is that they are unable to identify such reasons for themselves. Rationality thus entails a capacity for independent decision; rational individuals decide for themselves on appropriate reasons for action. And in so far as they are rational agents, individuals exercise that capacity.

To say that rational agents decide for themselves on (appropriate) reasons for action is not to say that they must generate those reasons independently. It is entirely possible for such individuals to acquire their reasons for action from others, for it is not the source of a reason but the character of the decision to act on it which is essential to rational agency. A rational agent might, for example, take
the opinion of a theoretical authority as his or her reason for action (which, by definition, is likely to be appropriate), without in any way endangering his or her status as a rational agent. Given the appropriateness of the reason, the sole requirement of rational agency is that the individual freely decide to act on it.

As a reason for action, an expert opinion has the character of advice. Advice constitutes a content-dependent reason for action, which means that the ground of its acceptance is a function of its terms. In contrast to an authoritative directive whose basis of obligation is independent of its content, advice derives its motivating force purely from the perceived appropriateness of its conditions. Even the expert advice of a theoretical authority compels only insofar as it appears to embody appropriate reasons for action. Decisions with respect to appropriateness are inevitably in the final instance made by the individual who accepts or rejects the advice. In arriving at this decision relevant issues are weighed concerning the credentials of the person offering the advice, the relationship of this person to the advisee, whether he or she is interested or disinterested with respect to the action counselled, its overall plausibility, etc. Even in taking a piece of advice as a reason for action, therefore, the individual first "makes it his own"16 by means of this deliberative process. Heeding the recommendation of a theoretical authority is thus

an exercise rather than an infringement of rational agency; something which cannot be said of obedience to political authority.

To the extent that action constitutes obedience, individuals do not themselves decide on its reasons. Acts of obedience have been shown to follow from authoritative, second order reasons which pre-empt the individual’s own deliberative conclusions. In virtue of this basis in pre-emptive, second order reasons, obedience presents a dilemma from the point of view of rationality. If rational agents act on the balance of reasons as they see them, it is not clear how it could ever be rational for them to reject that balance of reasons in basing their actions on the contrary second order reasons of an authority. And if it cannot be rational thus to act against one’s reason, how can rational creatures be subject to authority at all?

This dilemma is in fact more apparent than real as it derives from a failure to distinguish between different levels of analysis, and can accordingly be resolved. By taking a single act in isolation one might correctly conclude that to act contrary to the apparent balance of reasons would be to act irrationally. This is not to say, however, that acting against the balance of reasons might not be rational when that act is considered as one in a set of interrelated acts. The point is most clearly made by considering the situation of two co-operating actors in an iterated prisoner’s
dilemma. By focusing on any single iteration one might conclude that each player acts irrationally since either might have scored better by defecting. This conclusion would not reflect the fact of the matter however, so much as a failure to understand the nature of the enterprise in which the players were involved. By sub-optimising on single turns, the players maintain a co-operative regime which enables each to reap a greater long-run total. In “failing” in each instance to act on the best balance of reasons considered singly, the players maximise their advantages over time. On a standard, utility-maximising model of rationality, this is rational action.

It is possible to view the apparent dilemma between rationality and obedience in similar terms.\(^{17}\) Whereas in any single instance it would be irrational to act contrary to the apparent balance of reasons, such contrary action might well be rational if the benefits gained thereby outweighed the losses incurred. If the cost of maintaining a generally beneficial system were that individuals be prepared to act

\(^{17}\) The theoretical conclusions that can legitimately be drawn through application of the prisoner’s dilemma to concrete social phenomena is limited by the fact that the formal properties of that model bracket questions of justice. The prisoner’s dilemma constructs a situation in which equal sacrifices are required in order to achieve an equal mutual gain. In the iterated version we are considering, it is supposed that each player must make that equal sacrifice in order to benefit from the cooperative regime. In most concrete cases, however, sacrifices will not be proportional. Moreover, it will often be the case that the benefits enjoyed by parties who make above average sacrifices still exceed what they would enjoy by being excluded from the system altogether. Where the excess demanded of such parties is not essential to the working of the system itself (as is the greater contribution of the hegemon according to hegemonic stability theory [see Robert O. Keohane, *After Hegemony*, (Princeton: Princeton University Press, 1984) pp. 32-5 for an account of hegemonic statability theory]), they might agitate for a more equal share of burdens. Such is the nature of civil disobedience, whereby individuals who are prejudicially treated by a generally beneficial system seek to redress an arbitrary imbalance of burdens. In its typical formulation the prisoner’s dilemma is impervious to such problems. It is appealed to in the present connection only to establish that obedience to authority is not necessarily irrational; further questions pertaining to the rationality of obedience in any particular case are left unexamined.
on reasons contrary to their personal judgements in certain cases where acting according to those judgements were not more important than the benefits conferred by the system, it would be irrational for those individuals not to act on such reasons. Thus, there is no formal inconsistency between obedience and rationality. There are however some areas in which it would not be rational to surrender one’s rational agency. These are the areas in which acting on one’s own judgement is more important than the increase of benefits that might be enjoyed were one to act on reasons contrary to one’s judgement. In so far as it is required for the maintenance of a beneficial system, then, and subject to the aforementioned limitations, the surrender of judgement entailed in acting on second order reasons may indeed be rational.

The distinctly moral difficulties surrounding the concept of authority have been most ardently exposed by R. P. Wolff in his book In Defense of Anarchism. Wolff’s argument has a decidedly Kantian flavour, but the intuitions upon which it draws are general. Thinkers of many persuasions have attached special importance to individuals’ following their own conscience. This valuation may be defended on various different grounds. To have and act on deeply held moral beliefs might

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18 The intended distinction between rationality and rational agency is made in terms of action. Whereas the former consists in the ability to decide on appropriate reasons for action, the latter entails the ability to act on those decisions. It is only rational agency that is surrendered in obedience, for the ability to decide on appropriate reasons, like the ability to entertain attitudes toward the surrender of judgement are not affected by individuals’ obligation of obedience.

19 Religion and free speech have been the traditional constituents of this category, with matters of sexuality being a more recent addition.
be thought in some way to be constitutive of human identity. That is, it might be held that one fails fully to achieve personhood in the absence of those characteristics. Alternately, the importance of that commitment might be construed in terms of duty. One might be said to owe it to oneself, to some other(s), or to God, to develop and maintain this sort of moral personality. Or self-determination might simply be seen as providing the necessary basis of self-respect. Upon any of these rationales, however, individuals’ moral integrity appears threatened by the legitimate authority of the state, for how can individuals freely follow their conscience so long as they are bound by its directives? Although it will be argued that Wolff’s treatment of this problem is essentially flawed, his account is illustrative of the issues involved. Considering it will allow us to better understand the nature of the threat that authority poses to autonomy, while at the same time sharpening some of the distinctions that have been drawn above.

Wolff sees legitimate authority as a moral impossibility. He does not deny that some government could not come to enjoy a right to rule, but rather that citizens could rightfully give it; and since it is only by means of such a grant that Wolff allows a right to rule might be established, the idea of legitimate authority in his view is spurious.
Wolff's case against authority is grounded on the assumption of an indefeasible duty of autonomy, which he sees as implicit in the idea of morality itself.

Responsibility, which is the basic term of moral discourse, presupposes a capacity for rational choice, which in turn is based on individuals' possessing free will and reason. Aside from creating the moral fact of responsibility however, the joint possession of these characteristics engenders a moral duty on the part of the possessor; for in addition to being responsible for his or her actions, one possessed of both freedom and reason must also take responsibility for those actions. In Wolff's view, taking responsibility for one's actions "means making the final decisions about what one should do"\textsuperscript{20} and it is this moral requirement which he refers to as the duty of autonomy.

The duty of autonomy is in Wolff's mind the "primary obligation of man"\textsuperscript{21} and, in virtue of its priority, overrides any other moral duty with which it may conflict. Specifically, Wolff seeks to show that the obligation of autonomy makes impossible those duties that are associated with political obligation. Such duties of course include obedience to authoritative directives. For his part, however, Wolff insists that "[f]or the autonomous man, there is no such thing, strictly speaking, as a command."\textsuperscript{22} In Wolff's view, the individual's obedience to authoritative commands is inconsistent with this primary obligation since "by refusing to engage

\textsuperscript{20} R. P. Wolff, \textit{op cit.}, p. 15.
\textsuperscript{21} \textit{Ibid.}, p. 19.
\textsuperscript{22} \textit{Ibid.}, p. 15, (emphasis removed).
in moral deliberation, by accepting as final the commands of others he forfeits his autonomy.”

This last remark betrays a misunderstanding of obedience. Our analysis has shown that there is nothing in the nature of obedience that requires an individual to forgo moral deliberation; it is only certain reasons for action that must be abjured. Wolff is mistakenly here suggesting that in the face of authority it is necessary to surrender judgement entirely, which we have seen is not the case. The fact that this necessary surrender extends no further than to reasons for action does great damage to Wolff's position, for elsewhere he admits that “[w]hen we describe someone as a responsible [i.e. autonomous] individual, we do not imply that he always does what is right, but only that he does not neglect the duty of attempting to ascertain what is right.” Clearly, obedience to authority will not in most cases interfere with the individual's ability to ascertain what is right. Hence, even on Wolff's own terms it is not clear that obedience conflicts with autonomy.

What is clear, however, is that Wolff takes this to be the case. “The autonomous man,” he says, “insofar as he is autonomous, is not subject to the will of another.” With this statement Wolff seeks to establish the impossibility of political subordination among autonomous individuals. Nothing Wolff says in his

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23 Ibid., p. 14.
24 Ibid., p. 13.
theory however would cause us to apply this principle to political relationships only. His statement is perfectly general in nature. And given the absolute character of Wolff's commitment to autonomy, the effects of this principle when applied generally to society would be apt to render life unrecognisable. It is anybody's guess what sort of world would result where individuals' primary moral obligation were to avoid becoming subject to the wills of others. The animal kingdom probably affords as good an indication as any.26

Without subjection to the wills of others no binding commitment is possible. The problem is most clearly seen in the case of open-ended promises but it affects all binding commitments equally.27 By making a promise, say, to one's nephew to take him to see some movie whenever he likes, one becomes subject to his will. Henceforth, the nephew's expressed desire to go to see the film has for the promissor the force of a second order reason for action. Even if on the balance of first order reasons one would prefer to do something else, one must leave off these things in order to discharge one's commitment to one's nephew. This is the sort of

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26 Wolff does not see himself as advocating descent into a Hobbes-like state of nature; indeed, he implicitly denies that the adoption of what he calls "philosophical anarchism" would have any practical effect at all. Wolff believes that individuals have prudential reasons for acting as if they were subject to the will of others. It is clear, however, that prudence will not dictate gratifying the engendered expectations of others in every case that being faithful to one's word would, and Wolff seems oblivious to the possibility that a vicious circle of insecurity might be started in this way. It is at the very least safe to say that Wolff underestimates the potential his giving moral priority to autonomy entails for serious social malfunction.

27 See Green, op. cit., p. 34, for a discussion of the effects of promising on autonomy.
thing that Wolff maintains is not possible for an autonomous individual.\textsuperscript{28} Such an
individual, he says, always decides for himself what to do. That is, he only ever acts on first order reasons. And if, as in the example just considered, the balance of those reasons dictates some action other than that which one had promised, then, in Wolff's mind, to fulfil that promise would be to act wrongly. But we do not think of fulfilling promises in such situations as wrong.

It is of the nature of a commitment that it binds irrespective of the present judgement of the individual(s) to whom it applies. A prospective action whose completion is contingent on its according with the balance of an agent's first order reasons for action is not a commitment. Because commitments are not in this way dependent on first order reasons they create certainty, and certainty makes planning a rational activity. Even the most rudimentary forms of social organisation presuppose some degree of planning. First order reasons will undoubtedly prove too thin a fuel on which to run any society whatever, and thus to forswear second order reasons would be to radically proscribe human possibilities.

\textsuperscript{28} Wolff does allow that autonomous individuals might be subject to law in a system of unanimous direct democracy, because each individual would have consented (i.e., willed) in the abstract any law by which he or she might be bound. Even this limiting case however cannot answer Wolff's requirement of autonomy. It is not enough for a subject to once have willed the law to which he or she is subject in order to be autonomous. An autonomous individual (in Wolff's sense) must will the existence of that law so long as he or she observes it. Clearly, no prescription that can be vetoed simply by some member of the subject society changing his or her mind with respect to its validity can properly be said to be a law. In acknowledging unanimous direct democracy to be legitimate Wolff demonstrates a failure to appreciate the full implications of his emphasis on autonomy. For a critique of Wolff's views in regard to direct democracy see L. Green, \textit{op cit.}, pp. 30-1.
We get a glimpse of the source of Wolff's confusion in one of the many statements of the dilemma he sees between the autonomy of the individual and the authority of the state. We read: "If all men have a continuing obligation to achieve the highest degree of autonomy possible, then there would appear to be no state whose subjects have a moral obligation to obey its commands."\(^{29}\) Here we see that the duty of autonomy which Wolff considers individuals to be under is not a duty simply to be autonomous but to be autonomous to the highest possible degree. On what grounds, one might ask, does Wolff include this maximising condition? The answer, it seems, is not far to find. The same characteristics of freedom and reason which make possible autonomy are in Wolff's mind also responsible for human dignity.\(^{30}\) In correctly insisting that human dignity be maximised, Wolff mistakenly assumes that autonomy should be maximised as well. However, this is a non sequitur. It might very well be the case that maximising autonomy in the way Wolff suggests would detract from human dignity. Man is dignified not only by his status as a free and rational being, but also by his ability to engage in complex forms of social co-operation. We may fairly assume that the value of possessing the characteristics of freedom and reason would be considerably cheapened if by seeking to maximise autonomy individuals were to become unable to enter into binding commitments. The suggestion has been made that such is the inevitable effect of Wolff's emphasis on autonomy.


\(^{30}\) "When I place myself in the hands of another, and permit him to determine the principles by which I shall guide my behavior, I repudiate the freedom and reason which give me dignity." *Ibid.*, p. 72.
The inadequacy of Wolff's conclusion in no way disparages the concern from which his project springs. Given the nature of authority there is a very real danger of its interfering with individuals' autonomy. Some level of constraint on individual freedom is a necessary condition of social existence. Within the bounds of this necessity it does not seem right to call that constraint an "interference" with autonomy. However, the separation of action from belief that such constraints entail presents a real threat to personal integrity, and because of the value of the latter there exists a prima facie presumption against them. It is the job of political theory to establish the necessity and the bounds of authoritative reasons. In the latter half of this paper we consider one of the most renowned attempts at such justification, that of Thomas Hobbes.
Hobbes is regarded by some as the quintessential theorist of authority. In contrast to the Aristotelians who came before him and the liberals who came after, for whom “the social” and “the political” represent two distinct domains which, in effect, negatively define one another, Hobbes considered these two “domains” to be one in virtue of authority. Authority was in Hobbes’s mind responsible for the cohesion of society, and he consequently denied that “the social” could exist for an instant without “the political” to sustain it. In the following pages we will examine Hobbes’s theory of authority, laying out its normative and logical structure before critiquing its conclusions in light of the conception of authority developed in chapter one. This critique will reveal an anomaly in Hobbes’s theory with respect to the right to rule, the theoretical implications of which will be considered at the end of the present chapter and in a brief conclusion.

Politics and society are necessarily wedded, Hobbes believed, on account of the relative nature of ethical values and the need for agreement on moral principles in social life. Hobbes followed moral sceptics such as Lipsius and Montaigne in rejecting the Aristotelian cum Christian moral view which professed belief in a single
and determinate moral truth. These earlier sceptical writers had emphasised the
diversity of moral and cultural beliefs and practices in the world and the absence of
objective criteria for deciding between them. Though he was deeply impressed by
these views, Hobbes sought for his part to show that the rejection of the Scholastics’
moral view followed as a matter of logic from within his own philosophical system.
On the basis of his psychological theory (later to be considered) Hobbes endeavoured
at once to establish and explain the fact of ethical relativism.

“Every man,” Hobbes says, “for his own part, calleth that which pleaseth, and is
delightful to himself, GOOD; and that EVIL which displeaseth him: insomuch that
while every man differeth from other in constitution, they differ also one from another
concerning the common distinction of good and evil.” In Hobbes’s mind, evaluative
terms such as “good” and “evil” thus report, not on any property inherent in the
subjects of which they are predicated, but rather on the attitude of the person making
the attribution. In addition, Hobbes stressed the difference between the objectivism
implicit in moral language and the subjective nature of the evaluations which the use
of such terms represents. This disparity, Hobbes believed, was responsible for no end
of confusion and conflict in society. “For several men praise several customs, and

1 See Richard Tuck, Hobbes, (Oxford: Oxford University Press, 1989), for an account of the background
influences on Hobbes thought.
2 See Tuck, ibid., p. 55.
3 The Elements of Law, Natural and Politic, ed. Ferdinand Toennies, 2nd edn., (London: M. M.
4 See Tuck, op cit., p.56. “It was conflict over what to praise, or morally to approve, which Hobbes ....
isolated as the cause of discord, rather than simple conflict over wants.”
that which is virtue with one, is blamed by others; and, contrarily, what one calls vice, another calls virtue, as their present affections lead them." The role of authority was in Hobbes's mind to maximally eliminate such potentially devastating ambiguity.

If we agree on some summer day that the tree in my backyard in an oak tree, then it is certain that we will agree again in December, even though the tree has no leaves. Were we similarly to agree that a thing is good or evil, however, there is no analogous certainty that we would still agree were it to undergo some equivalent change. In making our original evaluations we might fix on separate aspects of the thing in question which differentially persist over time. Alternately, as Hobbes pointed out, the thing itself might remain unchanged but in virtue of some change in one's own "constitution" one might no longer deem it as before (we can imagine an old drinking buddy might arriving at a disagreement in this way with a reformed alcoholic).

Because of the subjective character of its terms, a moral vocabulary is indeterminate with respect to things in the world, and a concurrence in normative terms does not guarantee an intersubjective understanding among the individuals who use them as, say, a concurrence in arboricultural terms does. It is the need of individuals in society for such an intersubjective understanding with respect to moral principles which, in Hobbes's mind, identifies social with political life; for according to Hobbes the only

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way that such an understanding can be achieved is through the institution of a sovereign.

The relation of the sovereign to society as conceived of by Hobbes is analogous to that of a conductor to an orchestra. Though the members of an orchestra all read from the same score, without the conductor to co-ordinate the performance, the different interpretation given by each musician to the notes on the page would eventuate in collective confusion. The conductor is required to provide an authoritative interpretation that can serve as an object for general consensus. By accepting that interpretation, not as the only or even as the best possible interpretation, but as the one that is relevant to the performance at hand, the players are able to combine their individual performances into a single symphony. Similarly, Hobbes thought, individuals in society could acknowledge common moral principles yet on account of the different interpretations given to those principles they might arrive at terrible confusion. Indeed, in Hobbes’s day the most destructive conflict in recent memory was due to such interpretational differences. The Wars of Religion had been fought not over which moral principles should be accepted, but what was entailed in the adoption of moral principles that were commonly accepted by all. Through the eyes of a moral relativist like Hobbes, such a conflict was doubly ridiculous since there was no moral fact of the matter in relation to which either position might be said to be better than the other. Such a conflict arose not from a metaphysical clash of absolutes, but
rather from people’s sentimental attachments to what in the end were equally arbitrary positions. Since the cause of the conflict existed nowhere but in the contents of people’s minds, and since these were themselves malleable, Hobbes took such conflicts to be in principle resolvable. What was required in order to prevent interpretations from diverging in such critical areas was a form of direction analogous to that of an orchestra conductor. This direction could, in Hobbes’s view, only be given by a sovereign whose power was at once absolute and undivided. The burden of Hobbes’s theory of politics is to show how the need for such a sovereign follows from the facts of human nature and of the human social predicament.

On account of his relativistic moral beliefs, Hobbes faced certain difficulties in constructing a political theory, with respect to first principles; for by rejecting the idea of objective moral truth he was left with no clear means of making his own conclusion normatively compelling. Hobbes was not the first theorist to find himself in this position, however, and in confronting it he followed the lead of Grotius, who in *The Law of War and Peace* had stemmed the slide from moral relativism into thoroughgoing scepticism by developing a novel theory of natural rights.

Traditionally, natural rights had been seen as corresponding to natural law, which was taken to represent God’s will with respect to human beings. The criterion of such law
was the fact of its deriving from God, and often no clear distinction was made in these terms between natural phenomena which might be taken to reflect His will (such as pregnancy or ageing), and the prescriptive social rules which it was supposed God had laid down to govern individuals’ mutual interactions. Obligation to these latter rules was grounded ambiguously between a dept of gratitude to Providence on the part of individuals and a proprietary right of God over His creation. The idea of post-mortem punishments and rewards, of course, was never far away, but God’s powers in this regard were generally considered to be supplementary to and not constitutive of individuals’ primary obligation to obey his commands. God’s will being a universal and self-subsisting grounds of obligation, natural law was considered to be binding on human beings as such, within or outside society. Explorers in the New World, therefore, were no less bound by its prescriptions than shipwrights or shoemakers back home. Civil governments might undertake to enforce the conditions of natural law but they did not thereby create duties where there had been none before.

Obligation to natural law was thus seen as underwritten by the general duty to do God’s bidding. And although the terms of that law might include obligations to others, the grounds of those obligations remained a prior duty to God. Hence, in

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7 Compare John Plamenatz, Man and Society, (London: Longmans 1963), p. 123. “The doctrine that the ultimate ground of all obligation is the will of an omnipotent God is not to be reduced to a special case of the principle that ‘might is right’”.

loving one's neighbour, say, in accordance with natural law, one's duty was in the first instance to God, and only derivatively to one's neighbour. The indirect derivation of these duties, however, makes them no less real; and it was the mutual obligations that individuals are under in respect of their duty to God which underpinned the traditional theory of natural rights.

According to this traditional theory, in their dealings with one another individuals are entitled reciprocally to require respect for the will of God; a respect which is exercised in their treating one another in accordance with His law. Upon this understanding of the matter, natural rights serve to mark an individual’s moral entitlement to the benefits of natural law; or, in other words, such rights reflect the duties of others to observe the laws of nature toward him. In virtue of their relation to natural law, natural rights were seen in the traditional theory as deriving their moral force from the will of God.

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9 Thus Plamenatz, ibid., p. 123, observes: "It was thought that men, because there are rules which they ought to conform to even in the absence of all human government, have natural rights against one another . . . . Everyone has a right to require of others that they should keep to the rules in their dealings with him."

10 Compare Warrender, op cit., p. 18: "the term ‘right’ has a rhetorical rather than a philosophical value. Whatever can be said in the rights-formula can be said in the (other people’s) duties-formula, and therein stated more precisely."
A moral theory based on the will of God presupposes that the content of God’s will can be known. This presupposition in turn raises questions in relation to the sources of that knowledge. It was traditionally supposed that God’s will could be known both through common sense and scripture. Scripture, of course, provided a positive account of God’s will, which gave rise to definite obligations. The morals of these teachings, however, were not seen as exhaustive of man’s duties, and it was thought that they could be supplemented in a theory of natural law by means of human reason. God’s will was assumed to be implicit in existence itself, and thus in principle to be discernible to the human mind directly. 11 Many rules of conduct which were not found in scripture but which had been observed among civilised people from time immemorial were attributed to the rational apprehension of God’s will implicit in creation. Such rules were considered to be self-evident moral truths and along with the rules of scripture were held to be binding on rational beings as such.

The traditional theory of natural rights did not fare well in the hands of the moral sceptics, who invoked the emerging global perspective to expose its parochial nature. In many corners of the world, it seemed, God’s laws went unheeded; a fact which was hard to square with the assumed universality of the moral principles that those laws represented. The fact that many of the traditionally observed social rules were not acknowledged by the seemingly rational members of complex societies elsewhere in

the world engendered doubt in the minds of some as to the validity of the moral theory of which they were said to be part. Sceptics denied that within the global perspective any universal moral principles could be found. In their view, the world was characterised by too much moral diversity to allow for theoretical reconciliation of any kind. While granting the sceptics' point with respect to traditional ethical theories, Grotius sought to avoid their conclusion by postulating what he took to be a truly universal right of nature, and one on the basis of which ethical certainty might be attained.

None of the recent anthropological discoveries, nor anything to be found in history, so far as Grotius could tell, contained the least suggestion that anyone would deny that people had a right to defend themselves against unprovoked attack. For all of the manifest cultural diversity both in the actual and historical world, in Grotius’s mind, all human societies appeared to have had this belief in common: that individuals possess a right of self-preservation, and (conversely) that gratuitous violence against others is unjustifiable. Upon the slender basis of this cross-cultural commonality, Grotius endeavoured to construct an ethical theory which would be immune to the sceptic’s attack.
The primary means whereby sceptics had eroded the assumption of certainty in ethics was through the use of counterexamples. Sceptics themselves, however, had often remarked on the ubiquity of self-preservation. Grotius regarded himself simply as spelling out the moral implications of this fact which was acknowledged by the sceptics; and given his opponents' endorsement of the central issue, he considered his theory to be unassailable.

Shorn of the extensive rights and duties that the earlier Christian version had contained, Grotius's post-sceptical theory of natural rights was a very austere relation of the theory which it replaced. The cost of ethical certainty, in Grotius's mind, had been to reduce the content of morality to the positive right of self-defence and the negative duty not to cause unnecessary suffering; for upon this core of rights and duties all people could agree. Any rules of conduct extending beyond these basic norms, such as those requiring acts of positive beneficence (for example), were to be regarded as supererogatory cultural accretions, lacking the requisite universality of truly moral rules. On account of their containing such culturally specific elements, existing ethical theories had been rejected. In Grotius's view, however, the sceptics had fixed too narrowly on such particularities, and had failed to acknowledge the

12 See Hugo Grotius, The Law of War and Peace, trans. Francis W. Kelsey (New York: Bobbs Meririll Co, 1925), p. 13. “Long ago the view came to be held by many, that [a] discriminating allotment is a part of law, properly and strictly so called; nevertheless law, properly defined, has a far different nature, because its essence lies in leaving to another that which belongs to him, or in fulfilling our obligations to him.”
common core that all moral theories and practices share; that core which provided the basis of his new theory of natural rights.

In addition to its minimal content, Grotius's moral theory is remarkable for the inductive means whereby it is established; for by deriving his theory in this manner Grotius effectively bypassed the will of God in accounting for obligation. Grotius does not claim that the right of self-defence and the prohibition on senseless violence are morally obligatory because they accord with the will of God, but because rational individuals throughout history and the world have always recognised them as such. Grotius believed that the moral character of these actions may be discerned directly by an exercise of reason; there was no special need to inquire after the will of God. "The law of nature", Grotius observes, "is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God." 13

A conception which sees moral goodness as relating to the will of God, not in terms of immanent causality, but by virtue of being a rational property and His willing a rational universe has far-reaching theoretical implications. So long as God's will is viewed as sufficient independently of all other considerations to determine the moral character of

actions, individuals’ obligations might well remain inscrutable to them. God, it could be said, works in mysterious ways and it is not for mere mortals to question his motives; it is enough that they know what he wills and conduct themselves accordingly. If, however, as Grotius suggested, natural law is grounded in rationality and relates to God simply in virtue of His being the ultimate source of all reason, all obligations must in principle be comprehensible. If God necessarily wills rationally, His will can never make obligatory an action that is contrary to reason. Given the relation this theory posits between reason and obligation, it is to be expected that a justification of authority given in these terms would concentrate on the rationality of obedience.

Grotius’s idea of a natural right to self-defence afforded Hobbes the moral toe-hold he needed in order to give normative force to his political conclusions. Obedience to political authority was for Hobbes a moral as well as a practical necessity; and by assuming this Grotian-style natural right he endeavoured to establish the moral necessity in terms of the practical one.

In Hobbes’s day, the doctrine of the divine right of kings demonstrated how the will of God might be enlisted in support of a claim to the right to rule. This doctrine held

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subjects' obedience to the king to be morally obligatory on account of God’s willing that the king should command them. Obedience to the king was therefore simply an aspect of subjects’ duty to God, and nothing further was required to morally justify that obedience than a knowledge of God’s desire that the king should be ruler. The increasing awareness among thinkers of the age of the difficulties involved in ascertaining the desires of God, however, brought the divine right theory to grief; for short of direct revelation, it is unclear how the central claim of that theory could ever be satisfactorily established. So long as different views were possible with respect to the content of God’s will, the potential for disagreement and (ultimately) violence loomed largely. The disruptive effects of this sort of equivocality were abundantly clear in Hobbes’s day. Accordingly, he sought a justification of authority whose premises would not allow of such potentially destabilising ambiguity. Hobbes believed that he had found the necessary element of certainty in the assumption of a rationally grounded natural right of self-preservation.

One effect of eschewing the traditional natural rights scheme and adopting a framework based on rationally self-evident rights is that the obligations accounted for in those latter terms must be accessible to reason. Accounts of obligation which appeal to natural right in terms of a brute fact corresponding to the (potentially arbitrary) will of God, leave open the possibility that the relation thus accounted for might be at once morally necessary and irrational. Because such an account construes
the grounds of obligation as formally independent from the canons of rationality, the rational and the obligatory will not necessarily be coincident. An explanation of obligation based on rationally revealed natural rights, however, will only succeed if obligation can be shown to be rational. Given the rational character of the rights in such accounts, it would be logically inconsistent to hold that some action were obligatory and yet irrational. The prominence of the attempt to demonstrate the rationality of obedience in Hobbes's justification of authority is due to this need for rational consistency between the rights he assumes and the obligations he seeks to establish.

A natural-rights account of political authority like Hobbes's further departs from the traditional divine right theory with respect to the locus of the principle rights in question. Whereas the fundamental right in this latter doctrine is the divine right of the king, the crucial right in Hobbes's modern theory is the right of self-preservation that is enjoyed by subjects and rulers alike. On the divine right account, the king's right to rule comes "ready-made" (as it were) directly from God. The Hobbesian sovereign's right to rule, by contrast, is a terrestrial creation. It is the achieved result of the subjects' alienation of their natural rights by "transfer" to the sovereign. Unlike the king's right, then, which divine right theory construes as a brute fact about the world, the right of the Hobbesian sovereign is the result of a rational procedure. On Hobbes's account, it is not God but the subjects themselves who hold moral sway. The onus is
on Hobbes, however, to show how the subjects' transfer of natural rights might be said to be a rational action. It is this demonstration which occupies Hobbes throughout *Leviathan*.

Beyond the moral assumption which we have been considering, Hobbes's political conclusion rests on two main factual assumptions: that individuals innately fear death, and that they seek ever greater power in society. Both of these factual assumptions are grounded on what Hobbes calls "endeavour."

The concept of endeavour reflects Hobbes's general theory of explanation as it relates to human beings. In Hobbes's view, all of reality is in principle explicable in terms of matter in motion. Hobbes did not distinguish in this regard between overtly physical phenomena such as the orbiting of the planets, and ostensibly "spiritual" matters such as perception or emotion. All things were in Hobbes's mind equally suited to a single explanatory framework.

In keeping with this theory, Hobbes sought to provide an explanation of human nature and society purely in materialist terms. In his view, all of the psychological and social complexities of human life could be reduced to two basic kinds of motion (i.e., "endeavour"). Hobbes distinguished between "vital motion," on the one hand, which
comprises unwilled movements such as the beating of the heart, blood flow, digestion &c., and "animal" or "voluntary motion," on the other, which consists in movements that are "first fancied in our minds."\(^{15}\) This latter sort of motion takes the form of either "appetites" or "aversions," depending on whether the action in question is toward or away from something which promises to aid or to impede an individual's vital motion respectively.

By designating these latter sorts of actions "voluntary" Hobbes simply meant that they are meditated by the will. Hobbes did not thereby intend to suggest that individuals enjoy the sort of metaphysical freedom which is often associated with that word. The idea of free will is in Hobbes's mind specious; for the will, he says, is nothing but the "last Appetite in Deliberating."\(^{16}\) The voluntary motions that proceed from the will are thus, for Hobbes, not the result of a wholly unfettered choice, but rather reflect an intentional calculation of benefits. Hobbes sees individuals as strongly predisposed to pursue that which to them appears most likely to serve their vital motion, and hence the effective range of their choice is limited to a decision on means. Although they may make mistakes in this regard, or even diverge (within limits) from this general rule (by indulging in drunkenness, etc.), Hobbes did not doubt that, for theoretical purposes at least, individuals' behaviour may thus be described.


In light of this theory of human motivation Hobbes arrived at the first of his factual premises. For the individual, death is the ultimate surcease of motion. Fear of death, then, is simply the logical conclusion of aversion. Consequently, Hobbes concludes that "every man . . . shuns . . . death; and this he doth, by a certain impulsion of nature, no less than that whereby a stone moves downward." Hobbes' theoretical conclusion was, of course, a virtual restatement of an empirical generalisation that (we have seen) even the sceptics had allowed. For Hobbes, as for others, the proposition that individuals fear death was self-evident, and upon its certainty he hoped (in part) to ground his political conclusions.

Hobbes second factual premise has a more complex derivation, which involves both psychological and social considerations. In the former regard, Hobbes attributes to individuals a desire for "felicity," by which he means "Continuall successe in obtaining those things which a man from time to time desireth". In many ways, this desire for felicity is simply the converse of individuals' fear of death, for a certain degree of success in obtaining the things that one desires is necessary for life itself. To desire felicity is simply to wish to go on living. A concept like nirvana, or total release from desire, for Hobbes was unimaginable. "Life it selfe is but motion," he says "and

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17 From Philosophical Rudiments Concerning Government and Society, Ch. 1, sec. 7, as quoted in the editor's introduction to ibid., p. 28.
18 Ibid., p. 129.
can never be without Desire." ¹⁹ In Hobbes's mind, then, desiring is as necessary to life as breathing, and in so far as the very concept of desire presupposes a wish for fulfilment, human life is characterised by a desire for felicity.

The social considerations entailed by this second factual premise concern the implications of Hobbes's relativism for his conception of power. We have seen that for Hobbes, "whatsoever is the object of any man's Appetite or Desire; that is it, which he for his part calleth Good. And the object of his Hate, and Aversion, Evill." ²⁰ On this view, society is possessed of as many different goods as there are views of individuals about how best to provide for their particular vital motion. This plurality of goods in society bears on Hobbes's conception of power, which he defines in terms of a person's "present means, to obtain some apparent Good." ²¹ Viewing that good in isolation, such means might be thought in principle to be expressible in terms of some absolute measure. Hobbes denied, however, that power could properly be conceived of in this way.

The various goods in society correspond to the vital motions of the particular individuals who compose it. It hardly bears mentioning that these vital motions often are not harmoniously related. (What is good for the vital motion of the master, will not

¹⁹ Ibid., p. 130.
²⁰ Ibid., p. 120.
²¹ Ibid., p. 150.
be good for that of the slave.) And given the contrary relations of many goods in society, it is clear that some may be attained only through the frustration of others.

From this fundamental opposition, Hobbes inferred that powers in society also are opposed. On account of this opposition, Hobbes perceived that an absolute increase in one individual’s power would entail a decrease in power for the rest, even if the resources of the latter do not change. Given differential luck and the certainty that some individuals will seek to increase their share of power, Hobbes saw this interdependency giving rise to a kind of natural inflation whereby “[a man] cannot assure the power and means to live well, which he hath at present, without the acquisition of more.”

In light of the human desire for felicity and the relative nature of power, therefore, Hobbes posits as a second factual premise “a general inclination of all mankind, a perpetual and restlesse desire of Power after power, that ceaseth onely in Death.”

Upon these three premises, then, the moral assumption of an inherent right to self-preservation, and the two factual assumptions that individuals naturally fear death and that they pursue ever greater power in society, Hobbes based his political argument. Unlike earlier justifications of authority, Hobbes took his case to derive from indisputable first principles and thus to embody absolute certainty in its conclusion. In Hobbes mind, to reject his view would be to deny that human beings are to sort of

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22 Ibid., p. 161.
23 Ibid., p. 161.
creatures that they are universally acknowledged to be. Hence, Hobbes’s endeavour in
*Leviathan* is not to engender new beliefs, but to lay bare the necessary implications of
beliefs that his readers already hold.

By isolating the rudiments of human nature, Hobbes sought to identify the raw
materials out of which any society must be built. No social or political order was
possible, Hobbes thought, which would conflict with the basic characteristics which he
had revealed. Clearly, however, within the range of possible orders there would be
better and worse ways to accommodate these basic characteristics. Certain social and
political arrangements would be able better to provide for “felicity” than others.
Hobbes believed that the optimal political order was that of an absolute and undivided
sovereign, and he sought to deduce this conclusion from his postulates by employing
the theoretical construct of the state of nature.

The state of nature, of course, may be employed in political argument either as a
logical abstraction (as in Hobbes) or as an assumed historical fact. It pictures a pre-
civil state in which individuals coexist in the absence of political authority. This image
typically serves as a prelude to some kind of origin myth (or assumed fact) that is
supposed to account for the character of actual government.24 The state of nature was

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24 The concern for political beginnings which is implicit in the state-of-nature/contract construct reflects
the felt need to respond to the “genetic” accounts of political authority against which such theories were
well-suited to Hobbes's purposes as it allowed him to place before the reader in a particularly vivid manner the implications of human nature as he saw them. The frightening prospect of a "return" to the state of nature is immanently responsible for the cogency of Hobbes's argument.

Hobbes attributes to individuals in the state of nature the three essential characteristics mentioned above. Morally, Hobbes sees such individuals as characterised by the "right of nature." That is, "the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto."\textsuperscript{25} In the language of last chapter, this right might be expressed as the (moral) freedom to act on whatever first order reason an individual sees fit. Nothing that an individual might construe as useful to his or her self-preservation is off-limits as a reason for action, for in the Hobbesian state of nature, "every man has a Right to every thing; even to one anothers body."\textsuperscript{26}

Given the social facts of conflicting interests and the competitive nature of power, Hobbes viewed the unfettered right of nature as a formula for disaster. It was certain.

\textsuperscript{25} \textit{Leviathan}, p. 189.
\textsuperscript{26} \textit{Ibid.}, p. 190.
he thought, to lead individuals into war, "and such as war as is of every man, against every man." Unlike a conventional war between two internally cohesive adversaries, Hobbes pointed out that a war of omni contra omnes would engender such pervasive insecurity as to preclude all industry and enjoyments whatever. Thus, acting exclusively on first order desires would condemn individuals to a life of indigence and uncertainty, which Hobbes (now famously) characterised as "solitary, poore, nasty, brutish, and short." In this situation, Hobbes believed, individuals natural fear of death would cause them to reflect on their precarious existence in the hope of finding some better way to preserve their vital motion.

In Hobbes’s thinking, of course, individuals are driven by desire. The Platonic view, which sees reason as marshalling the passions, was in his mind wrong-headed. Although reason may direct voluntary motion this way or that according to the most likely means of fulfilment, by itself, Hobbes insisted, reason can never initiate action. Despite this subordinate position, however, Hobbes believed that it was reason that could save individuals from the state of nature. Hobbes assumed that by reflecting on their frustrated desires individuals would come to recognise the horrendous opportunity costs entailed in exercising the right of nature. That is, each individual would see that what he or she gains through being able always to act on first order reasons does not compare to what is lost through everyone else’s similarly acting on

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27 Ibid., p. 185.  
28 Ibid., p. 186.
such reasons. Hobbes imagined that, in this way, individuals would realise that from the point of view of vital motion a regime regulated by the right of nature is extremely inefficient and that far greater felicity could be attained in a condition of peace. To show how such individuals might act on this realisation Hobbes invokes to the concept of natural law.

In Hobbes's view, a law of nature is "a Precept, or general Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved." There is some ambiguity in Hobbes's discussion of natural law with respect to the character of this prohibition. Most often, Hobbes appears to suggest that it is the "Rule" rather than God that does the forbidding. Thus, analogously it might be said that Ohm's law "forbids" us from assuming that doubling voltage at constant resistance will not affect current, or Murphy's law from assuming that if something can go wrong it won't. In these latter cases it is clear that the prohibition such laws entail is underwritten not by the will of the author but by the requirements of rationality. Of course, the distinction between rationality and will as the basis of obligation cannot be so easily drawn in the case of "God's law," since reason itself is said to follow from His will (as it does not from Murphy's or Ohm's). But the tenuousness of that distinction in the case of the law of nature does not make it

29 Ibid., p. 186.
unimportant; for given this supposed basis in rationality, conforming to natural law
will in the first instance be an act of rational prudence or necessity and only
incidentally one of obedience. On the very point of the pre-eminently prudential
character of the subjects’ obligation by his account, many of Hobbes’s readers have
denied that his argument constitutes a moral theory at all.

Elsewhere, Hobbes refers to natural law in more traditional terms as the dictates of
God, “that by right commandeth all things.”\textsuperscript{30} The emphasis here is clearly on the
obedience entailed by such laws rather than their rational desirability. It must be
observed, however, that these passages often appear perfunctory compared to those
which stress the rational character of natural law. But this fact is hardly surprising
given that the concept of God’s will is much less determinate than any derived from
reason, and that Hobbes endeavoured to argue from certainty. Since, for Hobbes, the
will of God is revealed only through reason,\textsuperscript{31} there was little sense in dwelling on
God’s will in the abstract to the exclusion of what could be known concretely. To one
of Hobbes’s convictions, it was enough to ensure that a conception of natural law
embodied principles of reason in order to know that it was based on the will of God.

\textsuperscript{30} Ibid., p. 217.

\textsuperscript{31} Hobbes, of course, did not deny revelation, but thought that it too could be subsumed by rational laws.
Hobbes believed that individuals in the state of nature would fix on such rational rules as “convenient articles of peace”\(^{32}\) whereby they might transcend that perilous condition. Both the fact and the extent of the advantages of peace over war are reflected in the precept Hobbes takes as the first law of nature. This “Fundamental Law” consist in the proposition: “That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre.”\(^{33}\) Hobbes introduces a second law of nature to indicate the means whereby this coveted peace may be attained: “That a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himselfe he shall think it necessary, to lay down [his] right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe.”\(^{34}\)

Hobbes’s second law of nature thus is based on an implicit diagnosis of the problem of the state of nature, and suggests that it might be resolved by renouncing the unbridled right of nature that individuals “enjoy” in that state. In terms of our previous analysis this proposition amounts to the claim that individuals might achieve peace by reciprocally forswearing certain reasons for action. We might imagine that by

\(^{32}\) *Leviathan*, p. 188.

\(^{33}\) *Ibid.*, p. 190 (italics removed). Over the years much ink has been spilled in disputing the character of the “ought” in this law. It is unclear from Hobbes’s words whether he takes himself here to be reporting on a standing moral duty or offering a piece of common-sense advice. Some who have held the latter view have consequently denied that Hobbes’s theory has any moral basis. It will be suggested below, however, that such a criticism results from taking Hobbes too much at his word. Viewed generally, common-sense advice is a perfectly intelligible basis for a moral theory, and it will be argued that this was Hobbes’s intuition. In addition, we will observe the confusion that results from Hobbes’s use of antiquated categories in putting forth his novel moral theory (a confusion from which Hobbes himself did not escape). Only by mistaking this novelty in Hobbes and seeking to read him as the natural rights theorist that he appears on the surface to be can the above mentioned distinction be said to detract from the moral character of his theory.

agreeing, for example, not to act on reasons which have as their effects the death or serious injury of others, individuals in the state of nature could considerably ameliorate their condition. Unfortunately, Hobbes insisted, no such agreement would be possible among individuals in that state.

We have considered Hobbes's view that individuals act on appetites, and that those appetites aim at what is best for the vital motions of the individuals who have them. Moreover, we have seen that Hobbes views individuals as sufficiently rational to see that greater felicity can be achieved in a condition of peace than in one of war, and that peace requires individuals' limiting their reasons for action. The difficulty, however, individuals in the state of nature face with respect to such a limiting agreement, is that what subsequently is best for the vital motions of particular individuals will not always coincide with the conditions of the promise by which they have agreed. Each individual stands to gain most from a limiting regime through non-reciprocity; which is to say, where the reasons for action of others are limited and one's own are not, one's felicity will be maximised. From Hobbes's theory of motivation it follows that in the state of nature individuals cannot be trusted to keep their word. And of course under those conditions no agreement is possible between rational individuals.

35 Admittedly, there is a fine line to be drawn here, for certain non-reciprocating actions will subvert the regime entirely or result in one's exclusion, neither of which is in one's interest; but there are bound to be ample instances short of these in which an individual stands to gain more by transgressing than by observing the terms of the limitation agreement. The point is in any case moot, for in the state of nature such an agreement could never get off the ground.
Thus, in the Hobbesian state of nature individuals are unable simply to "lay down" their right of nature, even though all agree that the condition of peace which depends on its surrender is preferable to the state of war in which they currently live.\textsuperscript{36} The certainty of the fact that individuals' interests will diverge from the conditions of any limiting agreement would prevent those in the state of nature from exposing themselves to the losses that would inevitably be entailed in abiding by a failed agreement. Hobbes believed that in this situation rational individuals would see, however, that a limiting agreement could work and thus that peace would be attainable if individuals' interests could be prevented from diverging from its terms. If the threat to individuals' vital motions in abrogating the agreement were greater than any gain they could hope to achieve by means of abrogation, individuals could be counted on to abide by their word, and undertaking such an agreement would be a rational endeavour. What was required then was some kind of enforcement mechanism which, by attaching adequate sanctions to actions at variance with the plan, could ensure that individuals' interests would coincide with the conditions of the limiting agreement. In this situation Hobbes did not doubt that individuals would make the one agreement which is possible from within the state of nature—that which brings it to a close by establishing a sovereign.

\textsuperscript{36} Compare Plamenatz, \textit{Ibid.}, p. 133. "Anyone who, in the state of nature, in fact renounced his right to anything unless others did so too would be a simpleton, a fool, and would pay dearly for his folly by placing himself at the mercy of others."
By engendering a power capable of enforcing compliance, the agreement to create a
sovereign to enforce natural law differs from other agreements which might
( fruitlessly) be undertaken in the state of nature. 37 We have seen that, for Hobbes, an
agreement is possible only where advantages to individuals' vital motions coincide
with fulfilment of its terms. The creation of a sovereign establishes a credible threat
that the vital motions of those who act on forbidden reasons will suffer more than
would be the case were they to act on sanctioned reasons. Against these background
conditions it is reasonable to expect that restraint exercised in regard to one's own
reasons for action will be reciprocated by others (it is also becomes prudent not to
violate the sanctioned code). The existence of a sovereign thus makes participating in
a reason-limiting regime a rational activity and thereby enables individuals to enjoy the
advantages of peace.

37 There is disagreement in the literature as to whether Hobbes's account of the origin of the sovereign is
ultimately successful. It has been maintained that without some kind of "moral glue" to compel
individuals to keep their promises prior to the institution of the sovereign (such as a binding natural law,
for example) the agreement which creates the sovereign would be no less ill-fated that any other
agreement in the state of nature. This criticism properly points out that the power of the sovereign
depends on individuals' complying with their agreement, but it errs in suggesting that such compliance
would not be possible upon Hobbes's account. The institution of the Hobbesian sovereign would indeed be
an impossibility were each of the parties to the instituting agreement simultaneously to be offered an
opportunity for greater felicity by abrogating than by abiding by their promise, for in that case there would
be no power left to apply punitive sanctions. Empirically, however, such a situation is extremely doubtful.
It is much more likely that opportunities for illicit advantages will present themselves differentially to
individuals. In that case each individual considering such an action would have to count on the
opposition of all other individuals who stand only to loose by it. Hobbes's theory requires that the threat
of such opposition be substantial enough to make the commission of such an act inadvisable. There is no
reason to doubt that under normal circumstances the combined strength of those with nothing to gain by
abrogation would be entirely sufficient in this regard. (See Plamenatz's discussion of this point in op cit.,
pp. 135-8.)
Hobbes thus endeavoured to show that individuals would not be able effectively to live with the right of nature, nor to surrender it at will, but that their only hope to be rid of it (and hence to live in peace) would be to transfer that right to a sovereign. It was this transfer, in Hobbes’s mind, which was the origin of political obligation and authority; for he saw the alienated rights of the subjects as responsible for the sovereign’s right to rule.

Hobbes’s attempt to provide a general account of political authority in terms of the alienation of subjects’ natural rights through a transfer to the sovereign is ultimately unsuccessful, however, and this failure is indicative of a tension in Hobbes’s theory between two incongruous moral frameworks. The consequentialist considerations in terms of which Hobbes seeks to justify the original transfer of rights is at odds with the moral picture that results in light of that transfer; for, once justified, this transfer of natural rights renders inconsequent considerations of subjects’ well-being to the character of their obligation to government.38 Hobbes’s belief that government of any kind would be superior to life in the state of nature does not adequately explain why the normative relevance of subjects’ well-being should extend no farther than the justification of this supposed transfer. The seriousness of this criticism will be better

38 See Anthony Quinton, “Introduction,” in A. Quinton (ed.), Political Philosophy, (Oxford, Oxford University Press, 1967), p. 12. “Extrinsic theories [such as contractarian accounts] are the political correlates of teleological accounts of morally right action which define a right action as one from which it is reasonable to expect good consequences.” Albeit, Quinton observes, upon contractarian explanations “the connection between obligation and good consequences is indirect.”
assessed, however, after considering more generally the nature of Hobbes's alleged failure successfully to account for authority in these terms.

Hobbes maintained that individuals in the state of nature would realise that their exercise of the right of nature is responsible for their misery and that they would happily limit their reasons for action if they could be certain that others would do likewise. To this end, Hobbes says, they transfer that right to a third party; as if each should say to all others "I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner." The sovereign, who is a third party beneficiary of the agreement, swears away no rights and thus effectively remains in the state of nature. Of swearing away rights in general, Hobbes says:

To lay downe a mans Right to any thing, is to devest himselfe of the Liberty, of hindering another of the benefit of his own Right to the same. For he that renounceth, or passeth away his Right, giveth not to any other man a Right which he had not before; Because there is nothing to which every man had not Right by Nature: but onely standeth out of his way, that he may enjoy his own originall Right without hindrance from him . . .

Hence, Hobbes believed that in transferring their right of nature individuals do not confer on the sovereign anything that he did not already have, but merely agree not to

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39 *Leviathan*, p. 227 (italics removed).
resist the exercise of his pre-existing right. But this analysis of the right to rule is inadequate for it fails to reflect the essential novelty of that right.

We have seen that the sovereign is instituted in respect of an agreement whereby individuals mutually forswear certain reasons for action, which Hobbes conceives of as a transfer of natural rights. This limiting agreement is maintained through the issuance and enforcement of authoritative directives, or laws, which demarcate the permissible bounds of action on first order reasons. This system of binding second order reasons is of the essence of law and its enforcement constitutes the principle responsibility of the sovereign.

The attempt might be made to account for law purely in terms of first order disincentives which serve to ensure compliance with desired norms by determining the balance of individuals' first order reasons for action. Such an attempt, however, mistakes the character of law. To conceive of law in these terms is to construe it as a coercion-backed system of advice. Individuals are advised not to undertake certain actions on account of the negative consequences that are to be expected in the case that they do so. The rightness or wrongness of an action taken with respect to a piece of advice is contingent on the states of affairs presupposed by that advice actually coming to pass. If I ignore the suggestion that I should take a rain jacket with me on
my walk in the park, the fact that it does not rain means that I act rightly. By contrast, the wrong done in breaking the law is categorical; the wrongness of the act does not depend on an actor's actually suffering on account of his transgression. In breaking the law and getting away with it an individual is not merely rejecting a bad piece of advice. Were this the case, getting away with breaking the law would be to act rightly. Even in getting away with it, however, an individual who breaks the law acts wrongly. The categorical nature of the wrongness of breaking the law is accounted for in terms of the law-breaker's having failed to observe relevant second order reasons for action, which is independent from any consequences of that failure. This is not to deny in principle that a system of social regulation might operate purely on coercive advice, only that it would be a system of law.41

In areas covered by law, then, individuals must forgo their contrary first order reasons and accept the relevant authoritative directives as the reason for their action, and any individual failing to do so is subject to reprimand at the hands of the sovereign. Hence, the sovereign's right to rule consists (in large part) in the right to enforce a system of punishments for ignoring authoritative second order reasons for action.

41 Michael Oakeshott addresses this point explicitly in terms of Hobbes's theory in his "Introduction to Leviathan," Rationalism in Politics and Other Essays, (New and Expanded Ed., Indianapolis, Liberty Press, 1991), pp. 184-5. "According to Hobbes, for a man to be 'obliged' is for him to be bound, to be constrained by some external impediment imposed, directly or indirectly, by himself. . . . [W]ere a man to be constrained from willing and performing a certain action because he judged its likely consequences to be damaging to himself, he would suffer no external constraint and therefore could not properly be said to be 'obliged' to refrain from this action. . . . [F]ear of being thwarted by the power of another man, is . . . a reason for acting or refraining from a particular action, not an external constraint upon conduct."
Clearly, however, no such right can exist in the state of nature where no authoritative reasons are known. Hobbes acknowledges as much where he observes that “in the condition of Nature, where every man is Judge, there is no place for Accusation.”

Where there is no place for accusation, of course, there can be no right to accuse; yet this right is central to the operation of the punitive system that the exercise of rule presupposes. The existence of the institution of law therefore creates a new kind of right, that of doing justice on those who violate the terms of the limiting agreement, and it is explaining the creation of this new right rather than the transfer or alienation of pre-existing rights that must be the central task of an account of political authority.

Any adequate justification of the right to rule will be based on the same considerations which underlie Hobbes’s theory, which is to say, the interests and needs of individuals. It was not in seeking to justify political authority in these terms that Hobbes was mistaken, but in conceiving of their relation to authority as mediated by a transfer of natural rights. The two-tier justification scheme consequent on Hobbes’s conception, wherein a transfer of natural rights is first justified in terms of its good consequences and then the right to rule is justified in terms of that transfer of rights, has the effect of

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42 Ibid., p. 199.
insulating the issue of the legitimacy of an exercise of rule from the empirical characteristics of that exercise of rule itself. Hobbes took this bifurcation to be essential to the achievement and maintenance of social peace and stability; for where individuals might question their obligation in light of the sovereign's particular actions, Hobbes assumed that no social order could survive. We will presently see, however, that the separation of questions of legitimacy from the actions of political authorities is counterintuitive even on many of Hobbes's own assumptions, and a case will be made that as a general proposition this conclusion appeared theoretically viable to Hobbes only because of his mistaking the character of the right to rule.

Since, in Hobbes's mind, the state of nature has such tremendous negative utility, the threshold for individuals' transfer of natural rights was set very low. Given the bleakness of alternatives, Hobbes assumed that his consequentialist case for this transfer of rights would hold good whenever it was in an individual's interest to obey rather than resist a superior force. Once made, such a transfer would bind individuals to obedience independently of the particular actions of that authority. In terms of Hobbes's justificatory scheme it follows that there is no such thing as de facto authority, for any power capable of dominating individuals automatically receives the

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44 This is not to say that Hobbes saw individuals' obligation to their political superiors as absolute, however, for he insists that the transfer of any natural right must be voluntary, and "of the voluntary acts of every man, the object is some Good to Himself" (Leviathan, p. 192). Given Hobbes's understanding of good (in terms of vital motion) it is for him a logical impossibility that individuals could voluntarily transfer their right of self defence. Hence, no subject can be obligated by right not to defend him or herself from attack, even in case the attacker is the sovereign itself.
transfer of their natural rights which in turn grounds that government’s right to rule.

Being based on a transfer of rights, in Hobbes mind, obligation to any and all governments is normatively equivalent. From the standpoint of Hobbes’s theory, the fact that one government is in the hands of an exploitative band of robbers bent on milking the population to the limit (a prospect Hobbes viewed as unlikely) while another runs as an Athenian-style democracy has no bearing on the character of the subjects’ obligation to obey the law. All are equally bound, according to Hobbes, by the moral reality of the transfer of their natural rights.

A further consequence of Hobbes’s viewing the basis of obligation as consisting in a transfer of natural rights concerns his concept of “authorisation.”45 We considered above Hobbes’s characterisation of the transfer of rights in which he imagines individuals coming together and mutually declaring: “I Authorise and give up my Right of Governing my selfe, to this Man . . . etc.” This description makes clear the two-fold character of Hobbes’s conception of authority relations; for whereas it is the giving up of rights that is responsible for the subjects’ obligation, it is the concomitant authorisation which engenders the sovereigns’ authority.

Hobbes conceived of the authority of the sovereign on the model of a consignment. In his mind, everything that the sovereign does in the capacity of ruler is ultimately "owned" by the subjects: "So that by Authority, is always understood a Right of doing any act: and done by Authority, done by Commission, or Licence from him whose right it is." As a correlate of this view Hobbes concluded that the sovereign can commit no wrong against the subjects. Thus, "because every Subject is by this Institution Author of all the Actions, and Judgements of the Soveraigne Instituted; it followes, that whatsoever he doth, it can be no injury to any of his Subjects . . . For he that doth any thing by authority from another, doth therein no injury to him by whose authority he acteth . . . because to do injury to one selfe, is impossible."

By the time we arrive at Hobbes's political conclusions, the concern for the interests and needs of individuals which lent urgency to the pre-civil predicament of these latter and made their exit from that condition seem a normatively pressing matter is seriously obscured. Individuals, we are told, are morally bound to obey whomever can arrange things such that they have more to lose through disobedience than obedience, and they cannot complain for any treatment that they receive at the hands of such a ruler.

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46 R. S. Peters, in his essay "Authority," in Quinton (ed), *Political Philosophy*, p. 85, has criticised Hobbes's treatment of the concept of authority *in general* as analogous to the particular case where authority is granted by means of permitting another to make use of something over which one has a right to dispose. Such a case is indeed an authorised act, Peters observes, "but there is a more general meaning of 'authorize' which is to set up or acknowledge as authoritative; to give legal force or formal approval to . . . 'Authorization' is better understood in terms of the general concept of 'authority' rather than vice-versa. Hobbes pictured 'authority' in terms of 'authorization' which is one of its derivatives."

47 *Leviathan*, p. 218.

Hobbes assures his readers that this state of affairs is superior in terms of the quality of individuals’ lives than (what he takes to be) the only alternative.⁴⁹ But even if it is true that any government is better than no government, it does not follow (even upon the assumptions in terms of which that evaluation is made) that all governments are equally worthy of their subjects’ obedience.

Hobbes was prevented from theoretically distinguishing between better and worse governments on account of his viewing the right to rule in terms of a transfer of natural rights; for (as we have seen) the upshot of the subjects’ transfer was merely the unencumbering of the sovereign’s pre-existing natural right to all things. The positive aspects of the right to rule therefore, in Hobbes’s mind, are morally justified in terms of the natural right of the sovereign. This natural right, of course, Hobbes from the outset regards as legitimate, and he sees no special need for justification when it ceases to meet resistance on the part of others. In focusing his theoretical energies on the need for the transfer itself, Hobbes took for granted the moral character of the (supposed) right to rule which resulted from that transfer. Upon Hobbes’s view, the correlative duties of the subjects were in no way contingent upon the manner in which the sovereign exercised what was in fact his primordial right of nature.

⁴⁹ Hobbes observes in this connexion: “that the estate of Man can never be without some incommodity or other; and that the greatest, that in any forme of Government can possibly happen to the people in generall, is scarce sensible, in respect of the miseries, and horrible calamities, that accompany a Civill Warre” (Leviathan, p. 238); and elsewhere: “though of so unlimited a Power, men may fancy many evill consequences, yet the consequences of the want of it, which is perpetuall warre of every man against his neighbour, are much worse” (ibid., p. 260)
Viewing the right to rule not (in the way of Hobbes) as an atavistic natural right, but rather as a creation "ex nihilio" allows one more clearly to see that the existence of that right requires some special justification. As was previously claimed, such justification must appeal to the same kind of considerations to which Hobbes appealed in justifying individuals' transfer of natural rights; that is, it must be justified in terms of benefits conferred on the individuals subject to that right.\(^50\) Thus, the strength of a claim to enforce a system of law is to be determined in light of the benefits that the enforcement of that system provides, and not in light of some independently subsisting entitlement to do as one wishes with the people in question. The justification of authority in terms of benefits accruing to those over whom it is exercised leads to the concept of responsible government.

Responsible government is premised on the idea of a reciprocal moral relation whereby obligation is owed to authority in respect of advantages duly provided. This view of authority has been given theoretical expression by Joseph Raz in terms of what he calls the “service conception” of government.\(^51\) The idea here is that the primary function (and justificatory premise) of authority is to serve the governed. Raz

\(^50\) The present criticism of Hobbes’s theory is essentially that which Hume made of contract theories in general (in the words of Quinton, \textit{op cit.}, p. 12): “that the good ends for which the promise was made are sufficient to justify obedience to the state by themselves and without the intermediary of a highly speculative act of moral commitment.” For Hume’s criticism of contractarianism see “Of the Social Contract,” \textit{Hume's Ethical Writings}, (New York: Collier-Macmillan, 1965).

construes the service conception in terms of two theses which, he says, together account for the nature and role of legitimate authority. The first of these, "the dependence thesis," maintains that "all authoritative directives should be based on reasons which already independently apply to the subjects of the directives and are relevant to their action in the circumstances covered by the directive."52 And the second, "the normal justification thesis," claims that "the normal way to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly."53

Raz's two theses give increased precision to the concept of benefit as it relates to the justification of authority. According to Raz, what makes authority legitimate is its allowing individuals more surely to act on reasons that apply to them. Thus the rules of grammar might be said to represent legitimate authority because they facilitate communication, which any social being has reason to do.54 Of course, political reasons will generally be much more controversial than those which pertain to language; however this does not mean that no such reasons can be found.

52 Ibid., p. 47.
53 Ibid., p. 53.
54 See Peter Winch, "Authority" in Anthony Quinton (ed.), Political Philosophy, p. 100, for a discussion of the relation of authority to rule-governed practices like language.
The most obvious way that political authority enables individuals better to act on reasons that apply to them is by helping to solve co-ordination problems. The enforcement of traffic regulations provides a ready example of how authority can function in this way; for everyone has reason to wish to avoid the confusion that would result in the absence of such regulations. In addition, the state might play symbolic roles which enable individuals better to act on self-regarding reasons. Admittedly, here the concept becomes more nebulous and definite examples are harder to find, but it is arguable that in positively fostering a general sense of security and belonging among its citizens the state helps to establish or maintain the preconditions for meaningful action. If this is the case, then the symbolic gestures of the state also will be expressions of legitimate authority.

At any rate, the service conception of government provides us with the theoretical tool we need to distinguish normatively between governments on the basis of their empirical characteristics. Obligation to government begins and ends with de jure authority, which is to say authority expressed in directives based on reasons which independently apply to the individuals against whom those directives are enforced. Directives based on reasons other than these are the mark of de facto authority and do not morally bind those against whom they are enforced (whatever prudential reasons these latter might have for observing them). Needless to say, the service conception of
government does not follow Hobbes in denying that the sovereign power can in any way injure the subjects. Upon the service view, injury is done whenever individuals are forced to act on reasons which do not apply to them. Indeed, the normative thesis of that view may be summed up simply in the notion that individuals cannot legitimately be required to do themselves such injury.

No doubt, Hobbes came as close as was possible in his day to providing a justification of authority based on the benefits conferred by government on the lives of those who are subject to it. However, by interposing a transfer of rights between these considerations and the consequent right to rule Hobbes was lead to mistake the character of that right in two important ways. First, he failed to recognise that the right to rule, which (we have seen) presumes the right to enforce penalties for failure to observe authoritative second order reasons, is essentially a new right and not the vestigial natural right of the sovereign. And second, in virtue of this oversight Hobbes failed to realise the manner in which right to rule is self-limiting. In fact it is limited by the very considerations in terms of which he sought to justify the transfer of natural rights: the interests and needs of individuals. On account of his mistaking the character of the right to rule, Hobbes arrived political conclusions which are potentially at odds with the basic moral intuitions which underlie his theory. The suggestion has here been made that the service conception of government is truer to Hobbes foundational concerns than is his own right-based theory. It was, however, for
later thinkers in less unstable times more fully to develop the service conception of
government which is inchoate in Hobbes.
Conclusion

In the preceding pages we have reviewed the concept of authority and developed a particular conception of that notion which centres on Joseph Raz’s distinction between first and second order reasons. Enlisting this conception in an examination of Hobbes’s justification of authority has revealed an anomaly in that theory with respect to the right to rule. This right is the essential normative component of authority and is what distinguishes it from force on the one side and advice on the other. Given the centrality of the right to rule to the concept of authority (and hence to political philosophy itself) any inconsistency in that regard is bound to be significant. In concluding, then, let us give some further consideration to the theoretical implications of Hobbes’s view of the right to rule.

The upshot of Hobbes’s basing the right to rule on individuals’ transfer of natural rights is to limit the range of politically relevant reasons individuals independently have for acting solely to bodily survival. Bodily survival is of course a very important reason that individuals have for acting, and it is not surprising that in the midst of a civil war it would seem like the only politically relevant reason that there could be. Consequently, Hobbes arrived at a political conclusion which formalised this condition. In Hobbes view, anything necessary for individuals’ reasons of bodily survival is politically justified and no reason other than bodily survival has any political
significance at all. Subsequent history has shown, however, that the political significance of reasons is a function of their context. The range of politically relevant reasons fluctuates over time. Nor can it be assumed that reasons of bodily survival always politically trump other reasons which apply to individuals; a state which prohibits the climbing of dangerous peaks, for example, is not politically superior to one that does not merely on that basis. Individuals have interests based on autonomy which, no less than their bodily interests, may provide legitimate reasons for political action. As a general rule, however, these autonomy-based reasons can only subsist against background conditions in which individuals’ bodily interests are (for the most part) secure.

At the time in which Hobbes wrote bodily interests in England were extremely insecure; thus the granting of political significance to reasons other than bodily survival was a theoretical luxury which Hobbes could not afford. Even on the service conception of government, in such circumstances bodily interests would provide the only reasons relevant to political action. In seeking to make obligation manifestly unconditional, however, Hobbes based the right to rule on a transfer of natural rights. This theoretical move at once precluded the possibility of normative progress in civil relations and involved Hobbes in the theoretical inconsistency which has been observed. Whether Hobbes was aware of these theoretical drawbacks and attempted
to buy certainty of obligation at that price is unclear; but to one in Hobbes' s position
that might well have seemed like a deal worth making.
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