

Table of Contents

PART I

I. Introduction: The Problem of Political Authority.	2
1. A Political Parable.	2
2. The Concept of Authority: A First Pass.	4
3. Actions versus Agents: The Need for Authority.	6
4. The Significance of Coercion and the Reach of Authority.	8
5. The Concept of Authority: A Second Pass.	13
6. A Comment on Methodology.	16
7. Plan of the Book.	20
II. The Traditional Social Contract Theory	23
1. The Social Contract Orthodoxy.	23
2. The Explicit Social Contract Theory.	24
3. The Implicit Social Contract Theory.	25
4. Conditions for Valid Agreements.	28
5. Is the Social Contract Valid?.	32
6. Conclusion.	40
III. The Hypothetical Social Contract Theory.	41
1. Arguments from Hypothetical Consent: Motivation and Structure	41
2. Hypothetical Consent in Ordinary Ethics.	42
3. Hypothetical Consent and Instrumental Rationality.	45
4. Hypothetical Consent and Reasonableness.	55
5. Hypothetical Consent and Ethical Constraints.	62
6. Conclusion.	76
IV. The Authority of Democracy.	78
1. Naive Majoritarianism.	78
2. Deliberative Democracy and Legitimacy.	79
3. Equality and Authority.	85
4. Conclusion.	107

V. Consequentialism and Fairness.	109
1. Consequentialist Arguments for Political Obligation.	109
2. Rule Consequentialism.	114
3. Fairness.	116
4. The Problem of Legitimacy.	127
5. Conclusion.	134
VI. The Psychology of Authority.	135
1. The Relevance of Psychology.	135
2. The Milgram Experiments.	140
3. Cognitive Dissonance.	146
4. Social Proof and Status Quo Bias.	149
5. The Power of Political Aesthetics.	151
6. Stockholm Syndrome and the Charisma of Power.	159
7. Case Studies in the Abuse of Power.	166
8. Conclusion: Anatomy of an Illusion.	171
VII. What If There Is No Authority?.	174
1. Some Policy Implications.	174
2. The Case of Aid to the Poor.	185
3. Implications for Agents of the State.	198
4. Implications for Private Citizens.	201
5. Objections in Support of Rule-Worship.	209
6. A Modest Libertarian Foundation.	215
VIII. Evaluating Social Theories.	221
1. General Observations on the Rational Evaluation of Social Theories	221
2. A Simplified Conception of Human Nature.	225
3. Utopianism and Realism.	232
IX. The Logic of Predation.	237
1. The Hobbesian Argument for Government.	237
2. Predation in the State of Nature.	239
3. Predation in a Totalitarian State.	245
4. Predation under Democracy.	248
5. Conclusion.	270

X. Individual Security in a Stateless Society.	272
1. A Non-State System of Justice.	272
2. Is it Anarchy?	274
3. Conflict between Protectors.	275
4. Protection for Criminals.	281
5. Justice for Sale.	283
6. Security for the Poor.	286
7. The Quality of Protection.	288
8. Organized Crime.	289
9. Protection or Extortion?	292
10. Monopolization.	295
11. Collusion and Cartelization.	300
12. HOA versus Government.	304
13. Conclusion.	305
XI. Criminal Justice and Dispute Resolution.	308
1. The Integrity of Arbitrators.	308
2. Corporate Manipulation.	310
3. Refusing Arbitration.	312
4. Why Obey Arbitrators?	313
5. The Source of Law.	314
6. Punishment and Restitution.	315
7. Uncompensable Crimes.	315
8. Excess Restitution.	316
9. The Quality of Law and Justice under a Central Authority.	320
10. Conclusion.	328
XII. War and Societal Defense.	330
1. The Problem of Societal Defense.	330
2. Non-governmental Defense.	331
3. Avoiding Conflict.	337
4. Avoiding Terrorism.	352
5. The Dangers of “National Security”	358
6. Conclusion.	361
XIII. From Democracy to Anarchy.	363
1. Against Presentist Bias: The Prospects for Radical Change.	363

2. Steps toward Anarchy.	366
3. The Geographical Spread of Anarchy.	371
4. The Importance of Ideas.	372
5. Conclusion.	375
References.	377

Part 1

The Illusion of Authority

I. Introduction: The Problem of Political Authority

1. A Political Parable

Let us begin with a short political story. You live in a small village with a crime problem. Vandals roam the village, stealing and destroying people's property. For whatever reason, no one seems to be doing anything about the problem. So one day, you and your family convene and decide to put a stop to it. You take your guns and go out looking for the vandals. Periodically, you catch one of them, take him back to your house at gunpoint, and proceed to lock him in the basement. You provide the vandals with food so they don't starve, but you plan to keep them locked in the basement for a few years to teach them a lesson.

After you've been operating in this way for a few weeks, you decide to make the rounds of the neighborhood. Starting with your next door neighbor, you knock on the door and explain your anti-crime program. "You've noticed the reduction in crime in the last few weeks, haven't you?" you ask. Your neighbor nods. "Well, that is thanks to me. I've been locking vandals in my basement." Noting the wary look on your neighbor's face, you continue. "Anyway, the reason I'm here is that it's come time to collect your contribution to the crime prevention fund. Naturally, I can't provide my services for free. Your bill for the month is \$100." You extend your hand expectantly.

When your neighbor stares at you incredulously, making no apparent move to hand over the money, you explain patiently that, should he refuse to pay you the required amount, you will unfortunately have to label *him* a criminal, at which point he too will be subject to long-term confinement in your basement, along with the aforementioned vandals. Indicating the pistol at your hip, you note that you are prepared to take him by force if necessary.

Supposing you take this tack with all of your neighbors, what sort of reception could you generally expect? Would most of your neighbors cheerfully give over their assigned share of the costs of crime prevention? Or would they, perhaps, give over the money after grudgingly admitting their obligation to you?

Neither of these reactions is likely. In all probability, you would observe the following. First, almost none of your neighbors would take themselves to *owe* you anything. While some might pay up for fear of being locked in your basement, and a few might pay up out of hostility toward the vandals, almost none would consider themselves duty bound to do so, and those who refused to pay would more likely be praised than condemned for standing up to you.

Second, most would consider your actions outrageous. Your demands for payment would be seen as naked extortion, and your confinement of those who refused to pay you would be condemned as kidnaping. The very outrageousness of your conduct, combined with your deluded presumption that the rest of the village would recognize an obligation to support you, would doubtless cause many to question your sanity.

Now, what does this story have to do with political philosophy? In the story, you behaved like a rudimentary government. Admittedly, you did not take on all the functions of a typical, modern state. But you assumed two of its most central and seemingly essential roles: you punished people who harm others or violate others' rights, and you collected non-voluntary contributions from the public to finance your activities. The government's ways of carrying out these activities are referred to, respectively, as the criminal justice system and the taxation system. Your ways of carrying out these activities are referred to as kidnaping and extortion.

On the face of it, your activities seem to be of the same kind as those of a government. But while most governments' activities are regarded as legitimate, yours would be regarded as outrageous. Most people consider themselves obligated to pay their taxes, and consider punishment of tax evaders both desirable and within the rights of the state. But if you behaved as described in the hypothetical scenario, most people would consider themselves under no obligation to pay you, and would find your kidnaping of those who failed to pay reprehensible. So, despite the apparent similarities, most people's *evaluation* of the government's activities differs dramatically from our evaluation of your activities in the story.

This illustrates a general feature of our attitudes toward government. Governments are considered to be ethically permitted to do things that no non-governmental person or organization may do. At the same time, individuals are considered to have obligations to their own governments reaching beyond the obligations they have towards non-governmental persons or organizations, even when those non-governmental agents behave in ways similar to a government. This is not simply a point about the law, nor is it a

point about what sorts of actions one can get away with. The point, rather, is that the *ethical judgments* most of us make differentiate sharply between governmental and non-governmental actions. Acts that would be considered unjust or morally unacceptable when performed by non-governmental agents will often be considered perfectly all right, even praiseworthy, when performed by governmental agents. Hereafter, I shall, unless otherwise specified, always use “obligation” to refer to ethical obligations, rather than merely legal obligations; similarly for “rights.”¹

The question is, why? Why do we accord this special moral status to governments? And are we justified in so doing? It is these questions that I address under the heading of “the problem of political authority.”

2. The Concept of Authority: A First Pass

Before assessing the justifiability of our attitudes, we must first try to understand them. What is it, in ordinary moral thinking, that differentiates your actions in the above story from the actions of a government, and explains why the actions of the government are far more acceptable?

Broadly speaking, there are two sorts of explanations we might attempt. One possible type of explanation is that, despite appearances, the two *behaviors* are really different, that the government is not really doing the same thing as the private vigilante. For instance, suppose one thought the crucial difference was that the private vigilante (you in the story) does not give the village vandals a fair jury trial, as the government (in some countries) does to the people it seeks to punish. That could explain why the vigilante’s behavior is less legitimate than that of the government.

The other type of explanation is that the two *agents* are different.² That is, the government may well be doing the same things as the vigilante, but *who* is doing it makes all the difference. The reason you are to be condemned in the story is not that you are not faithfully imitating the government. You are to be

¹Some thinkers distinguish obligations from duties (Hart 1958, pp. 100-104; Brandt 1964). Hereinafter, however, I shall use the terms “obligation” and “duty” interchangeably, to refer to any ethical requirement.

²I leave the distinction between characteristics of the agent and characteristics of the action at an intuitive level. “Characteristics of the action” must, of course, be taken somehow to exclude such characteristics as “having been performed by an agent of such-and-such type.” Likewise, “characteristics of the agent” must not include such things as “being such that he performs actions of such-and-such type.”

condemned because you *are* acting like a government, but *you're not the government*.

It is this second type of explanation that I characterize as an invocation of *political authority*. Political authority (hereafter, just “authority”) is the hypothesized moral property in virtue of which governments may coerce people in certain ways not permitted to non-governmental agents, and in virtue of which citizens must obey governments in situations in which they would not be obligated to obey non-governmental agents. Authority, then, has two aspects:

- (i) *Political legitimacy*: This is the right, on the part of a government, to make certain sorts of laws and enforce them by coercion against the members of its society—in short, it is the right to rule.³
- (ii) *Political obligation*: This is the obligation, on the part of citizens, to obey their government. More precisely, it is the obligation to do certain things *because* the government has commanded them, even in circumstances in which one would not be obligated to obey similar commands issued by a non-governmental agent.

If a government has “authority,” then both (i) and (ii) exist: the government has the right to rule, and the citizens have the obligation to obey.

The having of political obligations does not mean merely that one is obligated to do the things that the law, or other governmental commands, require.⁴ For example, the law requires us not to commit murder. And we in fact have an obligation not to commit murder. But this does not suffice to establish that we have “political obligations,” because we would be morally obligated not to murder even if there were no law against murder. But there

³I use “authority,” “legitimacy,” and “political obligation” in stipulated, technical senses, as explained in the text. My usage of “authority” and “legitimacy” roughly follows that of Buchanan (2002), but I do not require that political obligations be owed specifically *to* the state. The state’s alleged right to rule should be understood as a justification right rather than a claim right (Ladenson 1980, pp. 137-9); that is, it renders it permissible for the state to engage in its distinctive forms of coercion, rather than imposing some moral demand on other agents. Note that my uses of “legitimacy” and “authority” differ from those of some other theorists (Simmons 2001, p. 130; Edmundson 1998, ch. 2; Estlund 2008, p. 2).

⁴Political obligation may apply not only to laws but also to other governmental commands, such as administrative edicts and court orders. This point should be understood throughout, though I shall often speak simply of obligation to obey the law.

are other cases in which, according to popular opinion, we are obligated to do things precisely *because* the law commands them, and thus we would not be obligated to do those things if they were not legally required. For instance, it appears that most people believe that we are ethically obligated to pay taxes on our income in countries that legally require this, and that we are obligated to pay the specific amount required by the tax code, no more, and no less. Even if one thinks taxes are too high, one probably does not think that one may choose to evade a portion of one's taxes. At the same time, even if one thinks that taxes are too low, one probably does not think that one is personally obligated to send more money to the government than the legally prescribed amount. And if the law changed so that income tax was not legally required, then one would no longer have an obligation to pay the government this portion of one's income. So, in the popular mind, the obligation to pay income tax is a political obligation.⁵

Those who believe in political authority need not hold that political authority is unconditional or absolute, nor need they hold that *all* governments have it. One could hold, for instance, that the state's authority is contingent on its respecting basic human rights and allowing a certain level of political participation on the part of citizens. Thus, one might hold that tyrannical governments lack authority. One might also hold that, even for governments that have authority, their authority has limits. For instance, one might think that even a legitimate government may not command a person to commit murder, nor would a citizen be obligated to obey such a command. A believer in authority may thus believe only that certain governments have a certain limited sphere of authority.

Despite these limitations, the authority that some governments are thought to have is an impressive moral property. As the example of section 1 indicates, this authority would explain an entitlement to perform actions of kinds that would be considered very wrong and very unjust for any non-authoritative agent.

3. Actions versus Agents: The Need for Authority

Do we need this notion of authority that I have been outlining, to explain the moral difference between the vigilante in the story of section 1 and the

⁵Klosko's focus group research lends some support to this impression of popular attitudes (2005, ch. 9, especially pp. 198, 212-18).

government? Or can one explain the difference by appealing only to differences between the government's behavior and the vigilante's behavior?

In the story as I described it, there were many differences between the vigilante's behavior and that of the government; however, none of these differences are essential. One can modify the example so as to remove any difference that might be thought relevant, and, provided one does not modify the vigilante in such a way as to convert him into a government, most people's initial reactions will still be to judge the vigilante much more harshly than government agents who perform analogous actions.

Thus, to follow up on an earlier suggestion, consider the fact that governments in some countries provide fair jury trials for accused criminals, before punishing them. One could imagine the vigilante in my story doing something similar. Suppose that every time you catch a vandal, you round up a few of your neighbors and force your neighbors to sit through a trial, which you hold in your house. After the presentation of evidence, you make your neighbors vote on the guilt or innocence of the accused vandal, and you use the outcome to decide whether to punish the accused. Would this procedure render your actions acceptable? Perhaps your treatment of the vandals would be more fair, but it hardly seems to legitimate your program as a whole. In fact, you have now added another offense to the list of your outrageous actions: your temporary enslavement of your neighbors to serve your "justice system."

Consider another suggestion. Government agents generally only arrest people for infractions of explicitly stated and published rules—the laws—whereas the vigilante appears to be punishing people only according to his internal sense of what is right or wrong. This difference, too, can be removed. Suppose that you take to writing down long lists of the behaviors that you consider unacceptable, along with accounts of just what you plan to do to people who engage in those behaviors. You then post copies of your lists on a bulletin board outside your house. Again, this hardly seems to suffice to make your behavior permissible. Inhabitants of the neighborhood at least have more warning as to what you might try to punish them for, but your willingness to put your demands in writing does not expand the range of things you may justly impose on your neighbors by force, nor does it obligate them to pay you the price you demand for your services.

A more initially plausible suggestion is that your behavior is impermissible because the rest of the community did not choose you to play that role. In contrast, in modern democratic countries, the citizens choose their leaders. This account, of course, implies that only democratic governments are

legitimate, so the great majority of the governments throughout world history have been illegitimate, and the great majority of people have lacked political obligations. This is probably already a significant revision to ordinary people's political beliefs, because individuals living under those regimes have probably generally taken themselves to have political obligations. Be that as it may, notice that this way of accounting for the difference between the government and the vigilante is an appeal to *authority* in the sense explained in the previous section. It does not claim that the vigilante is doing something different from what the government does; it claims that the actions in question may be performed by one agent and not another. The vigilante lacks the authority to punish criminals and collect taxes, because he has not been authorized by the members of the society. We will examine this theory of authority in more detail in a later chapter. For now, the point to observe is simply that *some* theory of authority is needed to account for why the government may coerce us in ways that ordinary people and groups may not.

4. The Significance of Coercion and the Reach of Authority

The need for an account of political legitimacy derives chiefly from the moral significance of *coercion* and from the coercive nature of government. It is important to bring these principles clearly into focus, to have a clear view of what needs explaining before we try to explain it.

First, we must clarify the notion of coercion. Hereinafter, I use the term "coercion" to refer to a person's threat to use, or actual use of, physical force against another person. When I speak of coercing a person *to do* something, I shall mean using physical force or the threat of physical force to induce that person to perform the desired action. I use "physical force" and "violence" interchangeably. I shall not define "physical force" here; I assume we have an intuitive understanding of the notion, and my arguments to follow will not depend upon any controversial judgments about what qualifies. My definition of "coercion" is not intended as an analysis of the term's standard use in English. It is a stipulative definition, intended to avoid repetition of the phrase "threat to use or actual use of physical force." My use of the term differs from the ordinary usage in at least two important ways: First, in the *ordinary* sense of the term, when A "coerces" B, A induces B to behave in some way desired by A; but in *my* use of the term, this is not required for coercion. Thus, in my sense, A may coerce B by physically injuring B, whether or not A influences or even seeks to influence B's behavior. Second, the ordinary sense of the term

counts a broader range of threats as coercive: in the ordinary sense, A might “coerce” B using a threat to spread malicious rumors about B. This would not qualify as coercion in my sense, because the threat is not one of violence. Coercion in the ordinary sense is certainly philosophically important and morally significant; nevertheless, I shall focus on coercion in my technical sense, because I believe one can construct important and compelling arguments regarding this sort of coercion.⁶

Government is a coercive institution. In particular, the laws made by governments involve coercion. Generally speaking, when the state makes a law, the law carries with it a punishment to be imposed upon violators. It is possible to have a law with no specified punishment for violation, but all actual governments attach punishments to nearly all laws.⁷ Not everyone who breaks the law will in fact be punished, but the state will generally make a reasonable effort at punishing violators, and will generally punish a fair number of them. These punishments are intended to harm lawbreakers, and they generally succeed in doing so. Typical punishments include fines and imprisonment.

Direct physical violence is rarely used as a punishment; nevertheless, violence plays a crucial role in the system, because without the threat of violence, lawbreakers could, and generally would, simply choose not to suffer punishment. For example, suppose you are caught running a red light, and you are told that your punishment is a \$100 fine. So far, this is just another command that has been issued to you. First you were commanded to stop before all red lights. After failing to do so, you were commanded to pay \$100 to the government. If there were no more to the story, you could simply choose to violate the second command, just as you violated the first. In fact, the second command may be enforced by yet a third command: the government could threaten to revoke your driver’s license if you do not pay the fine. But again, this is just another command: a revocation of one’s driver’s license is a command to stop driving. If there were no more to the story, you could simply choose to violate this third command as well. The order to stop driving, finally, may be enforced by a threat of imprisonment if you continue

⁶Of particular note, Edmundson (1998, ch. 4) argues that law is generally *not* coercive in the ordinary sense. My technical usage of “coercion,” however, avoids Edmundson’s argument while retaining the moral import ascribed to coercion, i.e., that coercion is wrong unless there are special circumstances that justify it.

⁷There are a few exceptions, including laws against suicide, some international treaties, and a government’s constitution.

to drive without a license. As these examples illustrate, commands are often enforced with threats to issue further commands, yet that cannot be all there is to it. At the end of the chain must come a command enforced through a threat that the violator literally cannot defy. The system as a whole must be anchored by a non-voluntary intervention, a harm that the state can impose regardless of the individual's choices.

That anchor is provided by physical force. Even the threat of imprisonment requires enforcement: how should the state ensure that the criminal goes to the prison? The state employs physical force, or the threat thereof, to induce individuals to go to the place where they are to be imprisoned. This requires actual or threatened bodily injury, or at a minimum, physical pushing or pulling of the individual's body to the location of imprisonment. This physical force is the final intervention that the individual cannot choose to defy. One can choose not to pay a fine, one can choose to drive without a license, and one can even choose not to walk to a police car to be taken away. But one cannot choose not to be subjected to physical force if the agents of the state decide to impose it.

Thus, a crucial element of the legal system—in a sense, the *basis* of the legal system—is *intentional, harmful coercion*. To justify a law, one must justify imposition of that law on the population through a threat of harm, including the coercive imposition of actual harm on those who are caught violating the law. In common sense morality, the threat or actual coercive imposition of harm is normally wrong, other things being equal, and such actions require a special justification. This may be because of the way in which coercion disrespects persons, seeking to bypass their reason and manipulate them through fear, or the way in which it seems to deny the autonomy and equality of other persons.

I make no attempt in this book at a comprehensive account of the conditions under which coercion may be justified. I rely on the intuitive judgment that coercion, especially harmful coercion, requires a justification, as well as some intuitions about particular conditions that do or do not constitute legitimate justifications. For instance, one widely accepted justification is self-defense or defense of innocent third parties: one may harmfully coerce another person, if doing so is necessary to prevent that person from wrongfully harming someone else. Suppose that you see a man beating a woman in an alley. You yell at him to stop, but he won't listen. You fear that the woman will soon be permanently injured or killed. In this case, most who are not pacifists would agree that you may use violence to stop the man. You may not use

unnecessary or excessive force, but you may use the level of force necessary to stop him, even if this will be extremely harmful to the man, possibly even killing him.

Another commonly accepted justification for harmful coercion is consent. If you are in a boxing match, to which both participants have agreed, then you may punch your opponent in the face. Normally, it is wrong to punch someone, but by voluntarily joining a boxing match, one consents to being punched.

On the other hand, there are many possible reasons for coercion that are generally agreed to be inadequate. If you have a friend who eats too many potato chips, you may try to convince him that he should give up potato chips to reduce his risk of heart disease. But if he does not listen to you, you may not *force* him to stop. If you admire your neighbor's car, you may offer to buy it from him. But if he won't sell it, you may not threaten him with violence to get the car. If you disagree with your coworker's religious beliefs, you may try to convert him. But if he won't listen, you may not punch him in the nose. And so on. In common sense ethics, the overwhelming majority of reasons for coercion fail as justifications.

Modern states stand in need of an account of authority, and specifically of political legitimacy, because modern states commonly coerce and harm individuals for reasons that would generally be viewed as inadequate for any non-governmental agent. This can be illustrated by some further embellishments on the story of section 1.

Suppose you announce that you believe a neighboring town is building some very destructive weapons, weapons that they might one day use to terrorize other villages. You feel you must prevent this from happening, so you round up a few like-minded villagers and travel to the neighboring town, where you violently depose the mayor, predictably killing several innocent people in the process. What should we think about your behavior?

When the government behaves in this way, its behavior is known as "war," and many people support it. But your behavior in this scenario is properly classified as terrorism and murder, and very few would condone it (particularly if it later emerges that the other village had no weapons of the sort you predicted).

To be sure, there are many who reject the idea of pre-emptive war. But even those who oppose a particular war, such as the U.S.-Iraq war of 2003, rarely view the architects of that war as equivalent to terrorists and murderers. Many American opponents of the Iraq war felt that George W. Bush was a

very bad leader for initiating the war, among other things. Some felt that he should have been removed from office. But few went so far as to call him a mass murderer, let alone to so label the officers and soldiers who followed Bush's commands. Yet we would have no hesitation in labeling as mass murderers the members of any private organization that, on its own initiative, performed analogous acts. If there were such an organization, calls for the execution of the members who participated in the violence would likely abound, and most people would surely support at least life imprisonment as an appropriate punishment. The notion of political authority is at work here: the feeling is that, whether its choice is good or bad, the government is the agent with the authority to decide whether to go to war. No other agent has the right to commit large-scale violence to achieve its ends, in anything like these circumstances.

Consider next the case of social welfare programs designed to assist the needy. Suppose that, amidst all your other unusual activities, you decide to start supporting charity. You find a charity that helps the poor. Assume that this is genuinely a very beneficial charity. Unfortunately, you believe your village has not contributed enough to this charity voluntarily. So you take to forcibly extracting money from your neighbors, to give it to the charity. How would your actions be viewed?

When the government initiates programs to aid the poor, funded by taxpayers, some people support the programs, while others oppose them. But even opponents of government social welfare programs rarely view the government agents administering the programs, or the legislators who vote for the programs, as thieves and extortionists. Few would call for their imprisonment, or their being forced to personally repay taxpayers. But we would have no hesitation in describing any non-governmental organization that used force to collect funds—even if it used these funds to aid the poor—as thieves and extortionists. Calls to imprison the members of such an organization and compel the members to personally repay those whose wealth they had expropriated would be commonplace. Again, the concept of authority explains this: we think that the government has the authority to redistribute wealth; non-governmental organizations do not.

This should give some indication of the range of governmental activities whose justification relies on the notion of political authority. We will discuss further in chapter V how far this range extends. But even from this brief discussion, it should be clear that, without a belief in authority, we would have to condemn a great deal of what we now accept as legitimate.

5. The Concept of Authority: A Second Pass

In this section, I discuss some further refinements of the notions of “political authority,” “political legitimacy,” and “political obligation.” The following five principles are implicit in the ordinary conception of the authority of government, and they indicate what defenders of authority would like to defend:

1. *Generality*: The state’s right to rule applies to citizens generally, that is, the state is morally entitled to coercively impose rules on at least the great majority of its citizens. At the same time, the great majority of citizens have political obligations.⁸ The defender of authority will not be satisfied to hold, for instance, that the state has authority over only half of its citizens.
2. *Particularity*: The state’s authority is tied specifically to its own citizens and residents in its territory. That is, according to those who believe in authority, a government is entitled to impose rules on those in its territory, in a way in which it is generally not entitled to impose rules on those living in foreign countries. Likewise, citizens have obligations to their own states of a sort that they do not bear to other states.⁹
3. *Content-Independence*: The state’s authority is not tied to the specific content of its laws or other commands.¹⁰ There should be some fairly broad range of alternative possible laws such that within that range, the state is entitled to coercively impose whichever laws it chooses to make, and citizens will be obligated to obey whichever laws the state has made. The range of acceptable laws need not be *unlimited*: it may be that the state is not entitled to make certain sorts of grossly unjust laws, such as laws enforcing slavery, and that citizens need not obey such laws. But there must be a significant range of discretion; the defender of authority will not be satisfied with the view that the state is only entitled to enforce *the correct* policies (on some independent criteria of correctness), or that citizens are only obligated to obey when the law is correct.

⁸This condition is articulated by Simmons (1979, pp. 55-6).

⁹Simmons 1979, pp. 31-5.

¹⁰Hart 1958, p. 104; Raz 1986, pp. 35-7, 76-7; L. Green 1988, pp. 225-6; Christiano 2008, p. 250; Rawls 1964, p. 5.

4. *Comprehensiveness*: The state has the right to regulate a broad range of human activities, and individuals have the obligation to obey the state's directives within that broad sphere.¹¹ This range need not be unlimited; for instance, one might hold that the state may not regulate the content of television news reporting, or citizens' religious practices. But defenders of authority would generally not be satisfied with the claim, for example, that the state may only occasionally issue orders, on just a few narrowly defined matters. Modern states typically regulate, and are taken to be entitled to regulate, many spheres of human activity—the terms of employment contracts, the trading of financial securities, medical procedures, food preparation procedures in restaurants, individual drug use, individual weapon possession, movement into and out of the country, the flying of airplanes, trade with foreign countries, and so on.
5. *Supremacy*: Within the sphere of action that the state is entitled to regulate, the state is the highest human authority.¹² No non-governmental human being or organization has the right to command the state, nor has any such person or organization the same right to command individuals that the state has.

In advancing conditions (1)-(5), I seek to faithfully characterize the ordinary, common sense conception of political authority. A satisfying account of authority should accommodate and explain these five principles. A theory that fails to accommodate principle (2), Particularity, will simply not be a plausible theory. A theory that fails to accommodate principle (1), (3), (4), or (5) will not succeed in defending authority as we ordinarily understand it. If no plausible theory comes close to accommodating principles (1)-(5), then I think we should conclude that no state truly has authority.

All of the five principles are vague to one degree or another, employing as they do such concepts as that of a "fairly broad range" and a "great majority." I shall not attempt to make the notion of political authority precise in these respects. I believe the concept will be clear enough for purposes of evaluating the arguments to be made in the remainder of the book. It is also vague how closely a theory must accommodate these principles. Again, I shall not attempt to make this precise. We should simply take note that if a theory falls very far

¹¹Klosko 2005, pp. 11-12.

¹²L. Green 1988, pp. 1, 78-83.

from accommodating the intuitive conception of authority, then at some point it ceases to be a defense of authority.

Now, a few words about what defenders of authority are *not* committed to. To have a political obligation is to be obligated to behave in a certain way *because the government commands it*. But this should not be taken to imply that the government's commanding something is by itself *sufficient* for one's having an obligation to do that thing. Those who believe in authority may hold that there are further conditions for the government's commands to be binding (for instance, that the laws should have been made in accordance with fair and democratic processes; that the present government should not have usurped an earlier, legitimate government; and so on). They may likewise hold that there are limits to the government's authority (for instance, that the laws may not be grossly unjust, that they may not invade certain protected spheres of privacy, and so on). So the idea that one must perform an action "because the law requires it" may really mean, roughly, that one must perform an action because the law requires it, the law was made in an appropriate way by a legitimate government, the law is not grossly unjust, and the law is within the sphere of things the government may legitimately regulate.

Defenders of political authority also need not claim that the government's authority is due to its being a government, in the sense that the property of *being a government* is directly or intrinsically morally relevant. Nor need they claim that it is *impossible* for any non-governmental organization to have similar authority. What defenders of authority generally believe is that there are some background conditions such that, when an agent satisfies these conditions, that agent has the right to rule and individuals have the obligation to obey that agent's commands; that some governments in fact satisfy these conditions with respect to their citizens; and that no non-governmental organization in fact satisfies the conditions.

These points are illustrated by the social contract theory, a paradigmatic theory of authority. According to this theory, governments that have authority have it because they stand in contractual relationships with their citizens. The mere existence of a governmental command is not held to suffice to generate obligations of obedience; some form of consent is also held to be required. Nor is the property of being a government held to be morally significant in itself; it just happens, according to social contract theorists, that individuals (in certain countries) in fact stand in a contractual relationship to their governments, and that they do not in fact have similar contracts, granting similar powers, to any other organizations.

Many illustrations could be given of the state's alleged political authority. For now, let us stick with taxation. According to popular moral and political views, the state may impose taxes on any and all residents (those living within its territory), and residents are generally obligated to pay the imposed taxes (the Generality condition). The state is only entitled to tax activities of its own citizens and residents, along with some interactions between foreigners and its own residents, as in the case of tariffs; if a state attempts to tax activities of foreigners not interacting with the state's own citizens and residents, then the foreigners are not obligated to obey those laws (Particularity). Within that constraint, the government is generally entitled to determine what shall be taxed and how much tax individuals must pay, and individuals are obligated to pay that amount, even if the tax is unreasonably high (or low) (Content-Independence). No non-governmental person or organization is entitled either to tax the state or to tax individuals (Supremacy). So, if popular views of taxation are correct, this illustrates the government's political authority.

6. A Comment on Methodology

The first part of this book is an exercise in moral and political philosophy. More precisely, it is an exercise in the application of moral philosophy to politics. The central concern is the evaluation of our moral attitudes toward government: Are governments really ethically entitled to do the things we usually take them to be entitled to do? Are we really ethically obligated to obey governments in the ways we usually take ourselves to be obligated?

Questions of this kind are notoriously difficult. How should we approach them? One approach would be to start from some comprehensive moral theory—say, utilitarianism, or Kantian deontology—and attempt to deduce from the theory the appropriate conclusions about political rights and obligations. I, unfortunately, cannot do this. I cannot do it because I do not know the correct general moral theory, and I don't think anyone else does either. The reasons for my skepticism are difficult to communicate and will not be adequately communicated here. They derive from reflection on the problems of moral philosophy and on the complex, confusing, and constantly disputed literature about those problems. They derive from the experience of seeing one theory after another run into a morass of puzzles and problems, and seeing this morass become ever more complicated as more philosophers work on it. I do not see any way to bring a reader to the state of skepticism about moral theory that I consider appropriate, apart from asking the reader to delve into

that literature himself. Here, then, I shall simply announce that I will not assume any comprehensive moral theory, and I think we should be very skeptical of any attempt to arrive at sound conclusions in political philosophy by starting from such a general theory. Nor, for similar reasons, do I start by assuming any general political theory (though I hope to arrive at a political theory in the end).

What is the alternative? I aim to start from moral claims that are, initially, relatively uncontroversial.¹³ This seems an obvious plan. Political philosophy is a difficult field. If we hope to make progress, we cannot start reasoning from a contentious moral theory; still less can we begin by assuming a contentious political ideology. Our premises should be things that, for example, both liberals and conservatives would typically find obvious at first glance. We must then attempt to reason from these premises to conclusions about the contested questions that interest us. The process will no doubt be more difficult and more involved than this simple description makes it sound; nevertheless, surely this is the correct general approach. Yet, natural as it may seem, this approach is seldom taken up. Political philosophers more commonly argue for a position on some controversial issue by starting from a controversial general theory. For instance, a political philosopher might try to determine whether immigration should be restricted by applying a Rawlsian hypothetical social contract theory to the issue.¹⁴

Most of the moral premises on which I rely are moral evaluations of particular behaviors in relatively specific scenarios. The story of the vigilante in section 1 above is a case in point. I take it that the individual in that story acts impermissibly. I consider this a reliable moral premise. The case is not a dilemma (like, say, the Trolley problem¹⁵), nor does it involve a moral controversy (like, say, a case of someone performing an abortion). To common sense, the negative evaluation is a straightforward, obvious verdict.¹⁶

¹³I say *relatively* uncontroversial, because in philosophy, virtually every claim is disputed by someone. To restrict oneself to *entirely* uncontroversial premises would thus almost certainly prevent us from constructing any interesting philosophical arguments.

¹⁴Carens 1987, pp. 255-62; Blake 2002.

¹⁵See Foot 1967.

¹⁶Herein, I use the term “common sense” to refer to what the great majority of people are inclined to accept, especially in my society and societies that readers of this book are likely to belong to. This is not to be confused with the technical use of “common sense

Some philosophers believe that in doing moral philosophy, one should rely only upon abstract ethical principles, refusing to trust intuitive ethical judgments about specific cases.¹⁷ Others believe, more or less, that only judgments about particular cases should be relied upon.¹⁸ Still others think that no ethical judgments can be relied upon, and that there is no moral knowledge.¹⁹ All of those views strike me as wrong. What seems right is that *controversial* ethical judgments tend to be unreliable, whereas obvious, uncontroversial ethical judgments—whether specific or general—tend to be reliable. As to those who believe there is no moral knowledge, I cannot take time to address their position in this book; for present purposes, I shall assume that we have moral knowledge, and that our clearest, most widely-shared ethical judgments are instances of such knowledge.²⁰

Though I have characterized my ethical premises as (relatively) uncontroversial, this does not mean that my arguments as a whole will be uncontroversial. On the contrary, I think that hardly anyone will accept my main arguments. The reason for this will be that the *conclusions* to which I come are so far from most people's initial opinions that probably nothing could get most people to accept them. I shall ultimately conclude that political authority is an illusion: no one has the right to rule, and no one has the obligation to obey a command merely because it comes from their government. But, while this may be counter-intuitive to most people, this does not seem to me to reveal any methodological flaw on my part. Bertrand Russell has said, "[T]he point of philosophy is to start with something so simple as not to seem worth stating, and to end with something so paradoxical that no one will believe it."²¹ I don't believe that this is *the point* of philosophy, but nor is reasoning from intuitive premises to surprising conclusions necessarily a mark of bad philosophy. Sometimes, popular beliefs are badly mistaken.

beliefs" in my earlier work (2001, pp. 18-19).

¹⁷Singer 2005.

¹⁸Dancy 1993, ch. 4.

¹⁹Mackie 1977.

²⁰See my 2005, especially ch. 5, for more on moral knowledge.

²¹Russell 1985, p. 53.

My attitudes toward pre-philosophical common sense might seem inconsistent. On the one hand, I consider the most widely-shared ethical intuitions as reasonable premises on which to rely. On the other hand, I claim that some very widely-shared political beliefs are fundamentally mistaken. The claim that there are at least some legitimate governments is not very controversial; nearly everyone, whether on the left or the right of the political spectrum, takes that for granted. So it is very natural to wonder, why do I not accept the existence of legitimate states as a starting premise, just as I accept common sense beliefs about personal ethics?

One reason is that I have never shared other people's political intuitions, if that is what they are. I share most of the normative intuitions of our society, such as that one must not steal from, kill, or otherwise harm other individuals (except in certain special cases, such as self-defense); that one should generally tell the truth and keep one's promises; and so on. But it has never seemed to me that there were people with the right to rule over others, and it has never seemed to me that anyone was obligated to obey a law merely because it was the law.

I do not think my intuitions are entirely idiosyncratic. In contemporary political discourse, there is a vocal minority who advocate drastic reductions in the size of government. Often, they defend their views in practical terms (government programs don't work) or in terms of absolutist claims about individual rights. But these arguments are not the main issue. I believe the true, underlying motivation is a broad skepticism about political authority: at bottom, the advocates of smaller government simply do not see why the government should be permitted to do things that no one else would be permitted to do. Even if you do not share this skeptical attitude, I would caution against simply dismissing the intuitions of those with differing ideologies. Human beings are highly fallible in political philosophy, and clashes of intuitions are frequent. If we wish to be objective, we must each give serious consideration to the possibility that it is we who have the mistaken intuitions.

Those who begin with an intuition that some states possess authority may be brought to give up that intuition if it turns out, as I aim to show in the succeeding chapters, that the belief in political authority is incompatible with common sense moral beliefs. There are three reasons why one should prefer to adhere to common sense morality rather than common sense political philosophy: first, as I have suggested, common sense political philosophy is more controversial than common sense morality. Second, even those who

accept orthodox political views are usually more strongly convinced of common sense morality than they are of common sense political philosophy. Third, even those who intuitively accept political authority may at the same time have the sense that political authority is initially puzzling—that some explanation is required for why some people should have this special moral status—in a way that it is not initially puzzling that, for example, it should be wrong to attack others without provocation. The failure to find any satisfactory account of political authority may therefore rationally lead one to give up the belief in authority, rather than to give up common sense moral beliefs.

7. Plan of the Book

The central thesis of the first part of this book is that political authority is a moral illusion. I plan to show this through an examination of the leading philosophical accounts of authority (chapters II-V). These are theories designed to explain why governments—at least *some* governments—have authority. None of the theories stands up to scrutiny. I shall follow the discussion of these theories with a discussion of the psychology of our attitudes about authority (chapter VI). The latter discussion will, I hope, make it plausible that philosophical accounts of authority are rationalizations for attitudes with non-rational sources, sources in which we should place little trust.

Most people believe that government is incredibly beneficial, and that without government, society would collapse into an unlivable state of chaos and violence. I would ask the reader to set this belief aside for the time being. The question of the first part of this book is not whether government is good or bad. The question is whether the government has certain special rights that you and I do not have, and whether we have certain special duties to the government that we do not have towards anyone else. A government, just like a private vigilante, could be highly beneficial and yet still lack authority in the sense I have defined in this chapter. Most accounts of authority turn on more than just the claim that the authoritative agent provides large benefits. For instance, the social contract theory, to be discussed in the next chapter, claims that the citizens of some states have *consented* to their political system. The existence and validity of this consent can be examined, independent of the magnitude of the benefits provided by the state. Of course, one might think that the large benefits provided by the state play a key role in establishing its

legitimacy. That topic will be taken up in chapter V, and in more detail in part 2 of the book. I ask the reader to put that idea out of mind until it is time to discuss it directly.

Questions about the necessity of the state and about how a society might function without a belief in authority are important. These questions will be taken up in part 2 of the book, where I address the practical consequences of abandoning the illusion of political authority. The central thesis of that part of the book is that society can function and even flourish without a general acceptance of authority.

My political philosophy is a form of anarchism. In my experience, most people appear to be convinced that anarchism is obvious nonsense, an idea that can be refuted inside of 30 seconds with minimal reflection. This was roughly my attitude, before I knew anything about the theory. And it is also my experience that those who harbor this attitude have no idea what anarchists actually think—how anarchists think society should function or how they respond to the 30-second objections. Anarchists face a catch-22: most people will not give anarchists a serious hearing, because they are convinced at the start that the position is crazy; they are convinced that the position is crazy, because they do not understand it; and they do not understand it, because they will not give it a serious hearing. I therefore ask the reader not to give up reading this book merely because of its conclusion. The author is neither stupid, nor crazy, nor evil; he has a reasoned account of how a stateless society might function. I cannot promise that you will find the account ultimately convincing. But it is very likely that you will find it to have been worth considering.

In the philosophical literature in recent years, it has become commonplace to question the reality of political obligations. Skepticism about political obligation is now probably the dominant view in the field. This surprising development is due mostly to the trenchant work of A. John Simmons, whose seminal work, *Moral Principles and Political Obligation*, tore down several leading accounts of political obligation. I endorse most of Simmons' arguments. Many readers will already be familiar with these arguments. But many will not; thus, in succeeding chapters I review some of the most important arguments against political obligation. At the same time, I believe Simmons did not go far enough, and the contemporary philosophical literature does not go far enough. Philosophers working in the area of political obligation have for the most part faced up to the inadequacy of extant accounts of political obligation. But they

have not yet faced up to the inadequacy of accounts of political *legitimacy*.²² And very few philosophers today give any serious attention to political anarchist theories. Typically, arguments about political obligation simply take for granted that the state is a vitally needed institution; the dominant view in the field has it that even though we need government, and even though modern states are justified in a great range of their typical activities, we still are not obligated to obey the law merely as such. I hope this book may induce a deeper reflection on the assumption of political legitimacy, and on the background assumption of the necessity of the state.

²²Simmons (1979, p. 196) denies that there are any “legitimate” governments, or that any governments have the “right” to coerce or to punish their citizens. However, he seems to use these terms in a stronger sense than mine, because he goes on to accept that governments may be *morally justified* in their activities (presumably including coercion and punishment) (p. 199). This is confirmed by Simmons 2001, pp. 130-31. Hence, Simmons’ apparent agreement with me is only verbal; in my terminology, Simmons accepts political legitimacy, whereas I reject it.