

*“Not the Boss of Me”:  
Reviving the Relationship Between Political and Parental Authority*

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## Preface and Acknowledgments

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## ***Chapter 1: Reviving the Relationship Between Parental and Political Authority***

My overall project is to revive the philosophical relevance of parental authority for the study of political authority. Contemporary philosophers customarily treat political authority as a freestanding question about the moral foundations and limits of state authority. Prior to the eighteenth century, however, eminent philosophers such as Thomas Hobbes and John Locke did not construe political philosophy as a narrow, balkanized field of inquiry. Instead, they sought to connect the exercise of political authority with the exercise of authority in other spheres of human life. In effect, the social contract theorists were out to articulate a general theory of authority, in which the authority of the state was a prominent but not exclusive interest.

Of course, most students of political philosophy today do not appreciate the importance of parental authority for the foundational figures of modern political thought. This is hardly surprising, since they are routinely told to skip over those portions of the seminal texts that do not obviously address the nature and limits of political authority. Nevertheless, I think we would do well to reconsider what might be lost when we ignore or minimize the less well-known sections of these great books.

The contemporary indifference to parental authority among political philosophers is—whether we know it or not—the unfortunate residue of an old and overheated ideological battle about the limits of political authority.<sup>1</sup> It was, ironically, one of the

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<sup>1</sup> I don't pretend that contemporary indifference toward parental authority is the product of an informed, deliberative attitude regarding the philosophical relevance of parental and political authority. I suspect most of us have given the matter very little thought, if any at all. On the contrary, I suggest that the tradition of political philosophy has been shaped by historical and ideological forces that have produced canonical notions of appropriate topics and methodologies. I believe we have unknowingly inherited a particular way of doing political philosophy, and it is an inheritance that deserves critical attention.

most insightful writers on parental authority—John Locke, in 1689—that ultimately succeeded in convincing generations of subsequent thinkers that questions about political authority are *sui generis*, and thus ought to be segregated from considerations of any other kind of authority. His sustained argument in the *Second Treatise on Civil Government* that parental authority is philosophically irrelevant to the question of political authority has, I will argue, needlessly deprived us of a richer and more interesting discourse about both political and parental authority. Locke’s success in this regard has been our loss, since I believe that our understanding of authority in both the family and the state would be mutually enriched if we would broaden the horizons of our curiosity to include a more integrated consideration of our obligations of obedience to parents as well as sovereigns.

My view is that there is a subtle tension in the social contract tradition between the concepts of parental authority and political authority. Reconciling this tension stands to transform our understanding of both forms of authority in constructive ways. First, I argue that thinking about parental authority in light of political authority leads us to discover that the proper scope and duration of parental authority is far more limited than we ordinarily think. I offer a conception of parental authority—what I call “parental liberalism”—as a revised account of the moral power parents may exercise over their children, given the norms and ideas at work in the most promising account of political authority.

Likewise, I argue that thinking about political authority in the light of parental authority helps us correct the prevalent assumption in contemporary political thought that political obligation is founded on some notion of consent. Thus, a central ambition of my

project is to articulate and defend a natural duty account of political authority that posits political obligation as the discharge of our natural moral duties of justice and self-preservation.

The benefit of an account of political authority that does not rely exclusively on the moral force of consent is substantial. The exclusive reliance on consent as the moral foundation of contemporary political authority has provided a prime breeding ground for philosophical anarchism. The philosophical anarchist concedes that if we consent to the political authority of a sovereign, then we are in fact obligated to obey its commands. But because we generally do not consent to such authority, there is no binding moral obligation to obey the dictates of the state. An account of political authority that need not rely on consent as the exclusive grounds of political obligation would prove more immune to the specter of philosophical anarchism that has haunted modern liberal thought.

### ***Children in Contemporary Philosophy***

Quite apart from the customary indifference of political philosophers to the exercise of authority in various domains, contemporary moral philosophers have shown a marked disinterest in the moral status of children. I think this lack of interest is surprising, since a characteristic project of modern ethics has been the attempt to establish an increasingly expansive and egalitarian conception of the moral community. At least since the end of the eighteenth century, writers such as Mary Wollstonecraft and John Stuart Mill have focused on the plight of women, arguing for their legal and moral emancipation on the grounds that they have been unjustifiably denied full and equal

status with men.<sup>2</sup> In more recent times, a growing number of philosophers—some of them very prominent—have sought to show that in addition to women, members of minority groups, those with mentally illnesses or disabilities, and even certain species of animals are entitled to greater moral status than has traditionally been believed.<sup>3</sup>

The essential feature of this emerging philosophical literature—what I call “emancipation literature”—is a willingness to question conventional notions of how we should treat certain types of beings that have been excluded from or marginalized within the moral community. Emancipation literature often evinces a special concern with our ethical duties to the most vulnerable beings among us. Vulnerable beings are typically those that meet two criteria.<sup>4</sup> First, vulnerable beings are—as a matter of fact—particularly susceptible to domination by others; for a variety of reasons, vulnerable beings seldom find themselves in a position—whether individually or collectively—from which they can effectively contest their subordination to others’ wills. Second, vulnerable beings are usually thought to lack the relevant features required for full moral status, thus their subordination to the will of others is construed as a morally appropriate response to their alleged moral inadequacy.

My initial focus in this essay is on the moral status of another vulnerable group in society: children. During the mid 1970s, there was a significant burst of interest in the moral status of children. In the wake of the women’s liberation movement, writers such

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<sup>2</sup> See Mary Wollstonecraft, *Vindication of the Rights of Woman*, eds. Anne Mellor and Noelle Chao (New York: Pearson Longman, 2007), and John Stuart Mill, *The Subjection of Women* (New York: D. Appleton & Company, 1869).

<sup>3</sup> For instance, Peter Singer, in his seminal 1975 work *Animal Liberation* (New York: Avon Books, 1975), argues that certain species of animals have a moral status that prevents us from doing with them whatever we wish. Recently Martha Nussbaum, in her book *Frontiers of Justice* (Cambridge, MA: Belknap Press, 2006), has argued that in addition to certain animals, we ought to reconsider the moral status of human beings with severe disabilities. In her view, those with severe mental disabilities are entitled to a greater degree of moral consideration than many tend to realize.

<sup>4</sup> Charles Larmore happily lent me the phrase “vulnerable beings.”

as John Holt and Richard Farson argued for the equivalent of a “children’s liberation.”<sup>5</sup> In much the same way that feminists targeted patriarchal oppression, Holt and Farson criticized what they saw as parental oppression. Child liberationists differ on the details, but their essential claim is that we cannot justify commonsense beliefs about the existence, scope, or duration of parental authority.

In more recent times, analytic philosophers have shown scant interest in the moral status of children as a worthwhile topic in its own right.<sup>6</sup> Where they do touch upon the moral status of children, they tend to gesture at problems rather than engage them. Any consideration at all is often accidental to their “serious” interest in more canonical philosophical problems. In the few cases in which contemporary philosophers have shown sustained interest in children, they primarily have focused on problems regarding the proper role of the state in adjudicating the authority relations between parents and children.<sup>7</sup> These problems are important, but we should be careful to note that problems regarding the appropriate relationship between the state and the family question the authority of the state to intervene in family affairs, while presuming the authority of parents to rule over their children to a significant degree. However, in this essay I want to call into question this latter, more fundamental authority.

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<sup>5</sup> See John Holt, *Escape from Childhood* (New York: E.P. Dutton & Co., 1974), and Richard Farson, *Birthrights* (New York: Penguin Books, 1978).

<sup>6</sup> A notable exception is the work of feminist philosophers who have shown significant interest in exploring the ethics of family life, believing that women’s oppression often begins in the home. For a paradigmatic example, see Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989). Tamar Schapiro offers a rare example of analytic engagement with the moral status of children; see Tamar Schapiro, “What is a Child?” *Ethics* 109, no. 3 (1999): 715–38.

<sup>7</sup> For prominent examples, see Eamonn Callan, *Creating Citizens: Political Education and Liberal Democracy* (Oxford: Clarendon Press, 1997); Amy Gutmann, *Democratic Education* (Princeton: Princeton University Press, 1987); Rob Reich, *Bridging Liberalism and Multiculturalism in American Education* (Chicago: University of Chicago Press, 2002); and Stephen Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, MA: Harvard University Press, 2000).

As any cursory search will reveal, there is an extensive literature on the legal rights of children. Legal scholars, however, generally aim to articulate the common law concept of a child, rather than a coherent philosophical one. In this essay, I emphasize the moral rights of children, and not necessarily their legal rights. I want to know how parents may and may not treat their children. Whether children should have legal rights, enforceable in a court of law, is a related but distinct question, and one on which I don't plan to focus. Moreover, I do not want to limit my analysis to the terms and concepts that legal scholars and jurists have introduced in their adjudication of children's-rights cases. There will be occasion to refer briefly to this literature, but I do not want my moral analysis to be constrained by a body of work or precedent that aims to address legal, rather than purely philosophical, questions.

The lack of interest among contemporary philosophers in the moral status of children is puzzling, especially given their commitment to other types of vulnerable creatures. Children can certainly be counted as among the most vulnerable members of society. Perhaps only herd animals or chattel slaves provide better examples of what it means to live subordinate to the will of others. Moreover, the subjection of children to parental authority is almost always taken as a basic axiom of commonsense morality. Certainly, if one were interested in groups that may be in need of philosophical advocacy, one could do much worse than to start with children.

Indeed, I think questions regarding the moral status of children should provoke more universal interest than questions regarding the moral status of animals or those with severe mental disabilities or illness. It is not too hard to imagine someone for whom worries about how we should treat certain types of animals or the mentally disabled have

simply not arisen. One may lack the kind of personal experience and acquaintance with these beings that so often motivates a heightened sensitivity to their moral claims on us. In contrast, every adult has had an intimate acquaintance with children, either because one has chosen to become a parent, one has pursued a career working with children, or simply because one remembers what it was once like to be a child. In any case, there is ample reason and opportunity for us to wonder about how we should treat children. And yet one looks in vain to contemporary analytic philosophers for a rigorous, sustained treatment of the question.

### ***The Apparent Indubitability of Parental Authority***

My suspicion is that the paucity of contemporary interest in the moral status of children at least partly reflects that our intuitions about how we ought to treat children are among our strongest and least questioned—far more unquestioned than whether we are permitted to eat, wear, or experiment on animals. It strikes many of us as absurd to wonder whether parents are morally justified in commanding their children to go to school or church, eat their vegetables, or not engage in premarital sex. It seems quite obvious that these instances of parental authority are morally justified. Of course, this is not to ignore that many of us endorse different parenting “philosophies,” believing that there are better and worse ways to raise a child. But the philosophical analysis of parental authority aims to establish the minimally acceptable conditions in which a parent’s commands may be imbued with moral power. And I think there are very few of us who believe that the above examples are clearly beyond the pale of morality.

The apparent indubitability of parental authority also reflects the extent to which it functions as an indispensable presupposition in arguments attempting to legitimize

other important kinds of authority. Consider Plato's famous argument in the *Crito* in which he attempts to establish political authority by drawing an analogy to the legitimacy of parental authority.<sup>8</sup> Plato claims that because we have an obligation to obey our parents in exchange for all the goods they have provided, we have an even greater obligation to obey the state insofar as it has provided us with even more valuable goods. The important point to notice here is that Plato's argument simply presumes the existence, duration, and scope of parental authority over a child. We may wish to contest a number of Plato's claims regarding political authority, but few objections would be as devastating as a denial of his initial assumption that children have a *prima facie* obligation to obey their parents.

Nevertheless, it doesn't take much familiarity with philosophical inquiry to realize that the strength of an intuition is an unreliable indicator of its truth. The earliest classics of philosophical literature—the Platonic dialogues—are constant demonstrations of this fact. Before their encounter with Socrates' elenchus, his interlocutors are certain they know what it is to be temperate, courageous, or virtuous. Afterward, most realize that their moral intuitions are more incoherent than they first believed, and that at least some of their most apparently secure beliefs ought to be discarded or revised.

Even in the event that our intuitions about parental authority end up requiring little or no revision, philosophical analysis is still worthwhile. If commonsense intuitions about what children are owed turn out to be more or less the duties we come to endorse upon reflection, those of us with a philosophical bent will at least profit from being able to show that our beliefs are supported by good reasons, and not just strong intuitions. In

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<sup>8</sup> See Plato, "Crito," in *Plato: Complete Works*, ed. John M. Cooper (Indianapolis: Hackett Publishing Company, 1997), 50d-51c, 44-45.

any case, we have much to gain from assuming a posture of humility and skepticism toward the epistemic value of intuition alone.

Of course, the strength of an intuition is not itself a sufficient reason to subject it to philosophical analysis. We need to articulate positive reasons—quite apart from its strength—to call an intuition into question. One such reason would be that we perceive that one strong intuition seems to contradict another strong intuition. In this case, the aim of philosophy is to analyze the incoherence as a means to proposing the best reconciliation between the conflicting intuitions. When we begin to think about parental authority, I submit that we uncover just such a conflict, and that we thus have good reason to call parental authority into question.

### ***Defining Authority***

Before describing the problem of parental authority, I first want to define what I mean when I refer to “authority.” Following Joseph Raz, I define “authority” as the moral power to require action.<sup>9</sup> To say that John has authority over Jim is to say that Jim has a moral obligation to obey John’s commands. John has “absolute” authority over Jim when Jim is required to obey his commands in all things, but only “limited” authority when the moral power of John’s commands is limited to certain matters or domains.

Associated with the idea of authority is the idea of legitimacy. Legitimate commands may be permissibly enforced through the application of coercive means. Thus, to say that John’s commands to Jim are legitimate is to say that it is morally permissible for John to enforce Jim’s compliance through the application of appropriate coercive

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<sup>9</sup> See Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), especially chapter 2.

means.<sup>10</sup> It should be seen that authority and legitimacy are conceptually distinct, even if they are often closely associated. While most authoritative commands are in fact permissible to enforce through coercion, it need not follow that every authoritative command may be coercively enforced.<sup>11</sup>

My primary focus in the following pages will be on the existence, scope, and duration of parental authority, and not the legitimacy of parental commands. I take it that most parental commands could be permissibly enforced through appropriate coercive means, but the following arguments in favor of parental liberalism as a specific conception of parental authority do not presume or depend in any way on whether all authoritative parental commands are in fact legitimate.

An important implication of the above definition of authority is that the concept of parental authority cannot be applied to children of all ages. In order for an individual to be subject to authority of any kind, we must assume that they are somewhat capable of responding to moral reasons. Because a newborn baby has no capacity whatsoever to respond to moral reasons, it is nonsense to think that we have any parental authority over the child. What would it mean to say that a newborn has a moral obligation to obey our command to eat? I believe that parents certainly do nothing wrong in pressing a newborn

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<sup>10</sup> I leave open how best to define the notion of “appropriate” coercive means. If nothing else, it should be appreciated that just because it is morally permissible to enforce compliance with a command, it does not follow that any and all coercive means are morally permissible. Some ways of enforcing compliance may be excessive given the moral importance of the command in question.

<sup>11</sup> David M. Estlund offers an interesting example in which one may be morally obligated to comply with the wishes of another person, but may not be coerced to comply. See David M. Estlund, *Democratic Authority: A Philosophical Framework* (Princeton, NJ: Princeton University Press, 2008), 126.

child to eat, but in such cases we should not speak of authority but only the legitimacy of their parenting practices.<sup>12</sup>

In order for the problem of parental authority to be formulated, we must assume that the moral development of a child endows it with the sufficient capacity to respond to moral reasons such that they could be said to be subject to moral obligations of obedience. On the other hand, the development of children must progress gradually enough that their suitability to be subject to authority relations does not entail that their moral sensibility is sophisticated enough to constitute the “age of reason” that eventually emancipates them from parental authority. In short, there must be a developmental window in which children are morally developed enough to be subject to parental authority relations, but not so much so that they would immediately be entitled to the moral status of an adult. To think otherwise is to deny the ground necessary for the concept of parental authority to gain traction in the first place.<sup>13</sup>

### ***The Problem of Parental Authority***

To appreciate the problematic nature of parental authority, it is first helpful to consider an analogous and more familiar philosophical topic: the problem of political authority. I suppose that some may believe that the right of the state to command its citizens in certain matters is just as obvious as the authority of a parent to rule over her child. But to make this quick and easy judgment is to suffer from a lack of sensitivity to

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<sup>12</sup> Parenting may offer an example where legitimacy applies without the presumption of authority: parents may be morally permitted to coerce their children in certain matters before their children have developed the moral faculties that render them fit to participate in authority relations.

<sup>13</sup> This notion of a “developmental window” is not unprecedented in the history of moral philosophy. We find a similar idea in Aristotle’s conception of “natural slaves,” who possess the rational ability to acknowledge their master’s commands as morally binding but lack the deliberative faculties to direct their own action. In a sense, slaves and children are rationally developed enough to appreciate their own rational deficiencies. See Aristotle, *The Politics and The Constitution of Athens*, ed. Stephen Everson (Cambridge: Cambridge University Press, 1996).

the curiosity that the exercise of political power should generate. We don't need to be dyed-in-the-wool anarchists to worry about whether the state may forcibly take land and wealth from its citizens, confine citizens against their will, impel them to serve in the military, and even execute them. Such harsh treatment demands justification insofar as it seems to violate our strong intuition that people have at least a *prima facie* right to life, liberty, and property. As argued, the suggestion that conventional state action seems to violate a strong moral intuition does not automatically discount the possibility of binding political authority, but it should provoke us to investigate the best possible reconciliation between our intuitions regarding the existence of political authority and our fundamental moral rights. The central project of political philosophy is thus a search for an account of political authority that coheres with our most basic moral status.

The same considerations that make political authority questionable should also lead us to question parental authority. The common Victorian picture of the family as a place of loving-kindness can obscure the extent to which the family may operate as a coercive institution. Simply consider the circumstances in which children live. They are regularly commanded to go to school and church. What they eat, how they dress, when to go to bed, what music and movies they can listen to or watch, and how and with whom they may associate may be the subject of constant surveillance, coercion, and sanction. In fact, it is difficult to imagine an area of life that in principle lies outside the authority of parents. And yet we harbor strong intuitions that people should not be coerced or sanctioned when it comes to their religious commitments, aesthetic values, or personal relationships. If we were to impose on adults the rules and measures that are regularly imposed on children, we would not hesitate to judge such imposition a morally

objectionable instance of “paternalism.” What is it about the difference between adults and children that can transform the ethical offense of paternalism into a perfectly appropriate discharge of one’s parental duty?

There is an additional reason to worry about parental authority. Children are denied basic moral entitlements because of an intrinsic personal feature that is not the product of individual choice—their youth. We treat children differently not because of anything they have or have not done, but because of what they are and what we think they will or will not do. Of course, it is not simply the brute fact of their youth that ultimately matters, but also the suppressed premise that youth reliably correlates with morally salient deficiencies that entitle parents to treat their children in ways that they may not treat other adults.

This way of framing the differential treatment of children resonates with other, more obviously troubling instances of moral discrimination. Like youth, gender and race are intrinsic personal features that are inherited and not chosen. And like children, women and people of color have historically been denied basic moral rights. Once again, the brute facts of gender or race were once widely thought to reliably correlate with such morally relevant deficiencies as a disability in the exercise of practical reason or a pronounced inclination toward socially destructive behavior. Nowadays we know that moral discrimination based on race and gender does not reflect genuine, morally relevant deficiencies but only the ideological prejudices of the dominant class. We reject and regret the injustice done to generations of women and blacks who were wrongly denied the treatment that is due to all human beings. Moreover, we express amazement that so many people could have entertained racist and sexist beliefs for so long.

The structural similarity between the arguments for the differential treatment of children, women, and blacks gives us reason to worry. This similarity is not itself a reason to conclude that children are unjustly treated, but it is enough to breed suspicion. Without investigating the matter further, how can we rest assured that the differential treatment of children will not turn out to be the latest instance of moral bigotry? What reason is there to think that youth offers a more respectable basis for moral discrimination than gender or race? To deny a group of people a basic moral right is not to be taken lightly. If we insist on doing so, it is incumbent upon us to ensure that future generations will have no reason to regard us the way we regard those of past generations who saw the oppression of women and black people as reflecting the natural order of things.

One may object that the subordination of children is morally different from the subordination of women and blacks, at least in one respect. Unlike those two groups, every human being is subordinate to parental authority during the early part of his or her life.<sup>14</sup> The universal experience of being subordinate to one's parents may at least partly account for the existence of parental authority. This is an interesting line of argument insofar as it attempts to suggest that at least part of what makes the subordination of women and blacks wrong is its inegalitarian application (i.e., only some of us have to deal with sexism and racism in our lives). This objection seems to trade on a customary association between universal treatment and fair treatment: because we are all treated the same when we are children, we must all be treated fairly.

However, universal treatment and fairness come apart. There are certain kinds of treatment that are not made any more permissible just because they are universally

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<sup>14</sup> I thank Dave Estlund for helping me notice this distinction. Jeremy Waldron also posed this objection to me in casual conversation.

applied. Imagine a society in which all people at the age of thirteen are subjected to severe forms of torture. We still recognize that such treatment is wrong even though all members of the society must endure it. In the same way, parental power is not made any more binding simply because we are all subject to it. Nor does its universality make it any better than the more particular subordination based on race or gender. In fact, one could argue that unjustified parental authority would be even worse than racism or sexism precisely because its abuses would be so widespread.

In this essay, I argue that commonsense beliefs about the appropriate scope and duration of parental authority are inconsistent with our more general moral commitment to respect the liberty of persons. This inconsistency leaves us with a dilemma: we must either treat certain children more like we treat adults, or we must treat certain adults more like we treat children. I favor the former option, believing that what makes paternalism directed toward ordinary adults wrong also makes paternalism directed toward certain classes of children who meet a surprisingly low standard for moral and cognitive faculties equally wrong. On my view—what I call “parental liberalism”—parental authority exists, but it turns out to be significantly more limited in duration and scope than common sense would have us believe.

### ***Paternalism, Autonomy, and Liberty***

The idea that a person has a moral immunity from authority exercised solely for his or her own good is a familiar theme in modern philosophy. The emergence of this idea is a hallmark of modernity, with its rejection of a classical moral tradition that assumed the all-encompassing authority of family, church, and state over the individual. However, the familiarity of this idea should not tempt us to uncritically resort to another

familiar idea: paternalism is wrong because it violates the value of “autonomy.”

Contemporary moral and political philosophy is rife with references to autonomy, but few of its advocates seem to appreciate how ambiguous, complex, and puzzling the concept is.

The ambiguity of autonomy is largely due to its having intrapersonal and interpersonal dimensions. First, autonomy is often presented as an intrapersonal concept regarding the normative source of the moral principles and norms that structure and guide one’s life. As any full-blooded Kantian will tell you, to live autonomously is to affirm these principles on the basis of one’s reason alone. On this view, the normativity of moral principles is grounded in the capacity of practical reason to decide for itself which principles and norms ought to guide our actions. Thus, the intrapersonal dimension of autonomy assumes a picture of reason as self-legislating in that it alone is able to endow principles with the moral authority that is thought to be entirely absent from the naturalistic world of experience.

Despite the pervasive influence of intrapersonal autonomy in the history of modern moral philosophy, I think its picture of what reason is and what it can do is problematic. As Charles Larmore has argued, intrapersonal conceptions of autonomy mistakenly construe practical reason as a sort of agent rather than as a faculty that is used by agents to discern good reasons for action.<sup>15</sup> But because reason is merely a faculty, it cannot succeed in endowing moral principles with authority, but only in discovering moral principles already infused with authority. Thus, when we say that our moral principles are the product of our reason—a perfectly intelligible claim—we are saying

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<sup>15</sup> Charles Larmore, *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008), 109.

that we have employed the faculty of reason to identify good reasons to endorse a particular set of principles and norms. These reasons are not somehow internal to reason itself, but simply the outcome of its exercise in a world suffused with value.

Even if one were to insist on the plausibility of the intrapersonal conception of autonomy—perhaps rejecting the moral realism that animates Larmore’s account of practical reason—there would still remain an additional, troubling question: What reason is there to value intrapersonal autonomy? Many writers depict the realization of intrapersonal autonomy as very important—indeed, as supremely valuable—but I confess that I struggle to see why a life lived in accordance with moral principles that are grounded in the authority of reason itself is necessarily better than a life lived according to the same principles grounded in more “external” sources of authority. Perhaps I’m supposed to see that intrapersonal autonomy is good in and of itself—in much the same way that we see happiness and beauty as intrinsic goods—and that once I recognize the intrinsic goodness of intrapersonal autonomy, I will realize that there is no special problem in demonstrating its value that is not merely an instance of the more general problem associated with demonstrating the value of any intrinsic good.

Unfortunately, it is not clear to me that intrapersonal autonomy should be valued for its own sake. I can’t imagine how I could begin to show someone the error of her ways who is committed to the importance of faith and ecclesiastical authority over the authority of reason and the individual will. All I could say to her is that she is failing to endorse moral principles on the basis of her reason alone—*but so what?* This is not to say that how we relate to the moral principles that structure our lives is unimportant, or that all that ultimately matters is that we live our lives in accordance with the right ones,

regardless of whether our conformity with true moral principles is coerced, random, or chosen in a rational way. In fact, I suspect that one of the strongest arguments against paternalism is that it tends to inhibit us from forming the best possible kind of relationship to the moral principles that should guide our lives. But I believe that we can entertain this last hypothesis without having to appeal to a concept of intrapersonal autonomy and its dubious picture of self-legislating practical reason.

There is a final, and I think decisive, reason to avoid an appeal to intrapersonal autonomy in this study of parental authority. Philosophy is hard enough without relying on a controversial doctrine that is more trouble than it's worth. To appeal to intrapersonal autonomy would obligate me to wade through a number of very sticky philosophical problems. This is a debt I'd be willing to pay if I were convinced that parental liberalism ultimately depends on the value or realization of intrapersonal autonomy. But parental liberalism doesn't presume that some children's capacity for intrapersonal autonomy entitles them to immunity from coercion and sanction imposed for their own good. In fact, I think one of the advantages of my view is its neutrality regarding the coherence or value of intrapersonal autonomy. People who profess a broad range of metaethical views about the normative source of their moral principles can have reason to endorse parental liberalism.

So much for the intrapersonal dimension of autonomy, but what about its interpersonal dimension? Whereas intrapersonal autonomy concerns the relationship between practical reason and the authority of morality, interpersonal autonomy focuses on our relationship to other persons. It generally refers to the commonsense principle that we all have an equal right to live a life in accordance with what we believe are the true

moral principles, without being subject to authority imposed solely for our own good.

This isn't to assume an over-intellectualized picture in which all or even many of us have a conscious and articulate idea of the moral principles that inform our lives. Nevertheless, I think very few people actually live their lives in an arbitrary way, without a semblance of direction or moral integrity. Perhaps the least we can do in many cases is infer the moral principles one in effect endorses on the basis of how one lives, in much the same way that Kant invites us in the *Grounding* to construct moral maxims on the basis of how we actually behave.<sup>16</sup>

The idea of interpersonal autonomy seems to offer us a coherent and plausible candidate for the moral right that paternalism violates. When we treat others in a paternalistic way, we are commanding them to live in accordance with a particular set of moral principles, and doing so as a means to promote their own good. Nonetheless, I avoid using the word “autonomy” or even “interpersonal autonomy” to refer to this familiar moral principle for fear of it being confused with the more ambitious and contentious ideas associated with intrapersonal autonomy. Instead, I prefer the more generic term “liberty,” and will hereafter speak of “liberty rights” to refer to this basic moral principle that has earned a prominent place in our commonsense understanding of what we owe to one another.

To understand the intuitive structure of what I am calling “liberty,” we should attend to four of its essential features. I hasten to add that we should not confuse the articulation of our intuitions about liberty with an account of its moral basis. In this introduction, I simply aim to outline how we ordinarily imagine the limits of liberty. In

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<sup>16</sup> See Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis: Hackett Publishing Company, Inc., 1993).

the third chapter of this essay, I present an influential account of the moral foundation for the structure and value of liberty, and then go on to argue that the most plausible accounts of liberty necessarily commit us to endorsing parental liberalism.

The first intuitive feature of liberty is that we ordinarily believe that our right to liberty is limited. Because every person is entitled to an equal exercise of liberty, one's right to live according to what one considers the true moral principles is limited by everyone's equal right to do the same. Liberty entitles us to live as we please provided that we respect the equal right of others to do the same. Second, our limited right to liberty is revocable in at least two instances. When one's exercise of liberty violates the liberty rights of others, we believe that we may constrain or revoke the agent's right to liberty. Thus, the criminal's right to liberty may be constrained or revoked because he or she has violated the liberty rights of others.

In addition, we believe that it is permissible to constrain or revoke the liberty of people who fail to provide the most basic goods for themselves, or who exhibit pronounced self-destructive tendencies. Whereas the criminal generally poses a danger to others, the rationally incompetent generally pose a danger to themselves.<sup>17</sup> Thus, we may deprive the incompetent of their liberty rights because we determine that they are incapable of providing themselves with what I call a "minimally decent life."

Third, our right to liberty is not congenital. Inasmuch as the right to liberty can be revoked, it is also not immediately granted at birth. Thus, we are not given the right to determine the course of our lives simply because we are born. We generally assume that

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<sup>17</sup> There is the category of the criminally insane who violate the liberty of others due to their mental impairment. For the sake of simplicity, I am focusing on the other-regarding harms associated with criminal behavior, and the self-regarding harms associated with mental incompetence.

we acquire the right to liberty by developing a capacity to live a minimally decent life, as well as a capacity to respect the rights of others to an equal measure of liberty.

Fourth, our right to liberty entitles us to live in accordance with what we consider to be the true moral principles, even when those principles are not in fact the true moral principles. In this sense, our right to liberty ensures that we have a “right to be wrong” about the best way to live. But notice that our right to be wrong does not extend to an entitlement to live any way we please. We retain immunity from authority and coercion despite failing to discern or implement the true moral principles, provided that we respect the liberty rights of others and manage to provide ourselves with a minimally decent life. Thus, one could say that liberty entails a right to be wrong, but not dead wrong in how we ought to live.

A helpful way to characterize the structure of liberty rights is to say that they have what I call “limited outcome independence.” In this sense, the value of liberty is independent of the outcomes of its exercise, but only to a point. Persons retain their right to liberty despite the fact that its exercise leads to a life with much to be desired. But liberty is not entirely insensitive to the quality of outcomes. There are ways to exercise liberty that may justify its revocation. Thus, criminals, the mentally incompetent, and children are denied liberty rights because all fail to either respect the liberty rights of others, or to provide themselves with a minimally decent life, or both.

To bring these ideas together in a simple and tractable way, let me suggest that criminals, the mentally incompetent, and children may be deprived of their liberty rights because all, for one reason or another, fail to comply with the demands of “minimal moral competence,” or “minimal competence” for short. Minimal moral competence has

an interpersonal and intrapersonal dimension: in its interpersonal dimension, minimal competence requires that we respect the liberty rights of others; in its intrapersonal dimension, minimal competence requires that we provide ourselves with a minimally decent life. Thus, criminals generally violate the interpersonal dimension of minimal competence by choosing to violate the liberty rights of others, and the mentally incompetent generally violate the intrapersonal dimension of minimal competence by failing to provide themselves with a minimally decent life. In any case, the deprivation of liberty rights involves a failure to comply with the dictates of minimal competence in either or both of its dimensions.

The above observations suggest that we intuitively see liberty as having a threshold structure such that a full measure of liberty is granted once one has met the minimal threshold requirements, regardless of the extent to which one may surpass that threshold. Throughout this study, I use the term “ordinary adults” to refer to individuals who meet the minimal threshold for liberty rights. Ordinary adults are not criminals or mentally incompetent, but neither are they necessarily living their lives in accordance with what we might consider to be the true moral principles. We should not ignore just how poorly some ordinary adults live. For instance, ordinary adults may regularly drink alcohol to excess, smoke, gorge themselves on unhealthy foods, spend money unwisely, and maintain destructive personal relationships. Nonetheless, we grant ordinary adults a full measure of liberty rights so long as they are minimally competent and thus pose no serious and impending danger to others or themselves. Let us call this subset of ordinary adults “irresponsible adults.” Irresponsible adults do not live well, but not so poorly as to vitiate their claim to liberty.

Some might bristle at the suggestion that we can specify the true moral principles. I would readily concede that there are some moral matters about which we may reasonably disagree. For instance, we may reasonably disagree about the true faith or whether affirmative action admission policies are morally permissible. I personally think that there are true answers to these questions, but I recognize that reasonable people arguing in good faith may never come to agreement. And, of course, there are many life decisions—both trivial and momentous—for which it makes no sense to speak of truth. Whether someone likes Stephen Sondheim musicals, international travel, or the academic study of philosophy are rightly matters of taste on which we may differ and yet have no basis for rational criticism.

I doubt that we could specify anything like the complete set of true moral principles, but I am confident that we can at least identify those ways of living that are clearly not in accordance with any reasonable conjecture as to what those principles might be. Thus, while I readily concede that there is a significant degree of reasonable disagreement about the best way to live, there is also significant and reasonable agreement about the worst ways to live. As I have tried to suggest, people who engage in behavior that poses serious and unnecessary threats to their health, live well above their financial means, and habitually entertain destructive personal relationships are not living well, and may in extreme cases fail to meet the standard of a minimally decent life. The reader might disagree about a particular case, or offer an alternate example of the truly bad life, but so long as we agree on the idea that there are objectively better or worse ways to live—regardless of where we might draw the lines—I think I have enough for my argument to gain some traction.

I suppose if one were to cling to some sort of robust moral skepticism by insisting that there is no possible rational agreement on at least some features of the good or bad life, or that there is in fact no such thing as a life that is better or worse than another, I grant that person would find my argument a nonstarter. But I would remind the skeptic that any argument needs to begin with an initial premise, and that I am not pulling my first few premises out of thin air. They are derived from an analysis of what I take to be our commonsense beliefs about the structure and value of liberty, and that it seems very difficult to make much sense of these beliefs if we jettison the idea that persons need to be minimally competent in order to retain or acquire a right to liberty.

### ***Three Views of Parental Authority***

Historically, there have been three categories of views regarding the existence, scope, and duration of parental authority. The first—usually attributed to Thomas Hobbes—claims that parents own their children, and that their authority over their children is unlimited, indefinite, and alienable. In much the same way that one has a right to dispose of one's property in whatever way they wish, parents may treat their children however they wish and for as long as they wish. According to Hobbes, children “are in most absolute subjection” to whomever assumes dominion over them. Nor are parents obligated to have anything to do with their children in the first place. They may “alienate” their children by “selling, or giving them, in adoption or servitude to others; or may pawn them for hostages, kill them for rebellion, or sacrifice them for peace, by the law of nature, when he or she, in his or her conscience, think it to be necessary.”<sup>18</sup> On Hobbes's proprietary view, children may be treated as a mere means to promoting the

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<sup>18</sup> Thomas Hobbes, *The Elements of Law, Natural and Politic*, ed. J.C.A. Gaskin (Whitefish, MT: Kessinger Publishing, LLC, 2004), 92.

interests of the parents. And age brings no relief from parental authority, according to the proprietary view: Hobbes argues that attaining a certain age does not necessarily release one from filial obligations of obedience. As it is with all servants, one's release can only come through an explicit act of emancipation.<sup>19</sup> Without such an act, parents are morally entitled to exercise absolute authority over their children indefinitely. Hence, Hobbes's account establishes parental authority of both unlimited duration and scope.

The second view is as extreme as Hobbes's but points in the opposite direction. Unlike Hobbesians, child liberationists claim that parents have no special moral powers over their children. In effect, child liberationists deny the existence of parental authority. As John Holt—a prominent child liberationist—writes, “I propose . . . that the rights, privileges, duties, responsibilities of adult citizens be made *available* to any young person, of whatever age, who wants to make use of them.”<sup>20</sup> Accordingly, children—even very young children—may exercise the right to privacy, the right to vote, own property, work, and manage one's own education. In short, all children at every level of development are entitled to a full measure of liberty rights. As Holt makes clear, children may not in fact exercise these rights and responsibilities, but they nevertheless retain them and may invoke them at any time as trumps on the exercise of parental authority. Parental duty nevertheless remains inalienable in that parents are in all cases obligated to provide for their children's care and education, provided of course that their children consent to such provision.<sup>21</sup>

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<sup>19</sup> Thomas Hobbes, *On the Citizen*, ed. Richard Tuck and Michael Silverthorne (Cambridge: Cambridge University Press, 1998), 110.

<sup>20</sup> Holt, 18–19.

<sup>21</sup> Holt, 27.

The third kind of view—originating in the work of John Locke—is more moderate and nuanced than either the proprietary or liberationist views. On the protectionist view, legitimate parental authority is limited in content, definite in its duration, and inalienable. Parents are obligated to act as trustees for their children, and only treat them in ways that facilitate their eventual development into adults who possess a capacity for reason sufficient to realize their “self-preservation” and to respect the right for others to do the same. Accordingly, parents may exercise a substantial but not unlimited degree of authority over their children’s lives as a necessary response to the temporary inability of children to promote the “strength and health [of] their bodies” and the “vigour and rectitude [of] their minds.”<sup>22</sup> However, once the “age of reason” has been attained—both a temporal and moral boundary—children are no longer subject to any authority, parental or otherwise, without their express or tacit consent. In this way, Locke attempts to reconcile “natural freedom” with “subjection to parents” by claiming that when exercised properly, parental authority enhances rather than diminishes the value of their children’s eventual liberty.<sup>23</sup>

I think most of us intuitively recoil from the Hobbesian account as barbarous, and resist the liberationist account as excessively permissive in its wholesale denial of parental authority. Locke’s emphasis on trusteeship seems to strike the right balance. It acknowledges the existence of legitimate parental authority, but also limits it in both content and duration. Indeed, Locke’s protectionism seems to map quite well onto our commonsense ideas of when it is permissible to deprive persons of liberty. We may deprive our children of their liberty because they are not minimally competent in

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<sup>22</sup> John Locke, *Second Treatise of Government*, ed. C.B. Macpherson (Indianapolis: Hackett Publishing Company, 1980), §64, 35.

<sup>23</sup> *Ibid.*, §61, 34.

fulfilling their intrapersonal and interpersonal moral duties. In line with my earlier comments about the epistemic unreliability of intuition, I believe we still need to show how the arguments for proprietary and liberationist accounts of parental authority go wrong. It is not enough to simply wrinkle our noses and assume they are false simply because they offend our moral intuitions. We must still identify what is wrong with these views, and until we do so, we cannot confidently dismiss the two extreme views regarding the existence and nature of parental authority.

I argue we can defuse both the proprietary and liberationist accounts of parental authority, and that the protectionist view will emerge as offering the most promising approach to the problem of parental authority. Parental liberalism most closely resembles the protectionist view in that I argue—against the child liberationist view—that parental authority exists, and—against Hobbes—that its exercise is in fact limited in both scope and duration. I maintain, however, that the most defensible account of parental authority commits us to a conception of parental authority in which its scope and duration is even more limited than protectionists generally realize.

### *Is Parental Authority Derivative?*

One interesting way to account for the conventional authority of parents over their children is to explore the possibility that at least some portion of what we ordinarily consider the appropriate range of parental authority originates not from the fact of their biological parenthood or social role as primary caregivers, but is simply the limited authority that homeowners have over those who are staying under their roof.<sup>24</sup> Indeed, it is something of a cliché for parents to justify their authority over their children by

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<sup>24</sup> I thank Dave Estlund for suggesting this interesting possibility.

reminding them that as long as they live under “this roof” they have an obligation to comply with their parents’ wishes. And it seems plausible to consider that the benefits of staying in another person’s home as a guest do give rise to an obligation to honor the homeowner’s request that one not smoke in the home, do their fair share in keeping the home a clean and pleasant place, and perhaps even turn in for the night at a reasonable hour.

Even if the authority of the homeowner could account for at least some of the authority that we generally think parents may wield there nevertheless remains certain aspects of parental authority that far outstrip the authority of the homeowner. The right to insist that children keep to a nightly curfew may be grounded (at least partly) in the parent’s authority as a homeowner, but how do we account for the authority of parents to impose religious practices and beliefs on their children, or the authority to police their children’s personal relationships? What could be the source of this more distinctive form of authority? Houseguests would certainly not be obligated to share the religious beliefs and practices of their hosts, nor would they be beholden to their host’s judgment about the sort of people they should befriend or date. This is the province of parents alone, and we cannot hope to account for the truly distinctive elements of parental authority by noticing that parents are also homeowners.

Lastly, it is questionable whether the authority of homeownership really resonates with the concept of parental authority. While parents may own homes and thus may often authoritatively dictate the ways in which they would like their guests to behave, it is not clear that children should be considered houseguests subject to the authority of their host. In this sense, there is a clear disanalogy between parental authority and homeowners’

authority. Children are seldom in the position to choose where they live or when they would like to move on; they often lack the financial resources and psychological independence necessary to move out of their parents' home. In these cases, the child is not a voluntary guest choosing to stay with a certain host and able to go elsewhere if the host's terms prove unacceptable in some way. I doubt it follows that nonvoluntary houseguests have no obligation to honor the terms of their hosts, but if houseguests have no place else to go, it is reasonable to think that the authority of the homeowner may be circumscribed. It is plausible that a houseguest who chooses to remain under the roof of a particularly finicky or demanding homeowner would then be obligated to obey the homeowner's wish that his houseguests attend church with him, but if the houseguest has no other alternative—let's say their car broke down in the middle of nowhere and there's no other house within 50 miles—I think it is reasonable to think that there is a limit to the sorts of things that the homeowner may require of his unfortunate guests (e.g., attending church is out of the question). On my view, most children are in the position of the unfortunate motorist in that they find themselves living under their parents' roof and lack the means to easily find an alternative place to live. As such, the authority of parents may in certain cases be even narrower than the authority of homeowners.

### ***What Is a Child?***

It is reasonable to pause at this point to wonder exactly who we are referring to when we speak of "children," for no one can deny that there are enormous physical and mental differences between newborn babies and adolescents, and that many of these differences have profound moral implications. There is no doubt that our intuitions about

how we are to treat “children” cannot come into focus unless we first more carefully specify exactly who we have in mind.

It may seem appropriate or even necessary at this point to provide a developmental chart organized along chronological lines before we can continue our investigation in a fruitful way. Indeed, developmental psychologists like Jean Piaget, Lawrence Kohlberg, and Erik Erickson dedicated their lives to the elucidation of such schemes. But this essay is not primarily interested in mapping or analyzing the empirical distinctions that exist between different stages of childhood. I am primarily interested in analyzing the philosophical concept of childhood, and its ethical implications.

For the purposes of this study, the following definition will suffice: “children” refers to human beings who are as a matter of fact deprived of liberty rights on the basis of their youth. This is not to say that all children should be denied these rights, but only that they are. This definition aims to include the full spectrum of children, from newborn infants to late adolescents, all of which are routinely denied liberty rights. The denial of liberty to a newborn infant is not meant to parallel the denial of liberty to a late adolescent. It is reasonable to believe that very young children simply lack the minimal rational and cognitive faculties necessary for expressing and implementing the moral principles by which they wish to live. On the other hand, it is reasonable to believe that many older children are quite capable of expressing and implementing their moral commitments, regardless of whether we would consider these preferences to meet the threshold for the granting of liberty rights.

At the heart of the protectionist account is the assumption that minimal competence is reliably correlated with age. We can concede this claim and yet still

wonder whether it follows that all children should be deprived of liberty rights. First, it may turn out that while minimal competence can be reliably correlated with age, such that children generally exhibit relatively less moral competence in making life decisions, they may nevertheless still prove competent enough to make a persuasive claim to liberty. Thus, it is not enough to show that ordinary adults are generally more competent than children; it must be shown that children are so incompetent that they cannot even meet the minimal threshold required for the granting of liberty rights.

Second, if minimal competence is reliably but not *necessarily* correlated with age in such a way as to justify depriving children of their liberty, it is plausible to think that there are some outlying children who at least seem to exhibit a sufficient level of moral competence. In fact, the one empirical claim on which parental liberalism depends is that there are children who attain minimal competence before the conventional age of reason. This is a fairly weak claim. I am not claiming that all children meet the threshold for liberty, but only that some human beings do meet the threshold and yet are denied liberty on the basis of their youth. In addition, I am not claiming that some children are as capable as any ordinary adult in living according to what we might consider the true moral principles. Parental liberalism only assumes that there are some children who freely respect the liberty rights of others, and reliably provide themselves with the goods necessary to live a minimally decent life. Let's call children who are minimally competent "responsible children."<sup>25</sup>

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<sup>25</sup> Actually, I think there are children who far exceed many ordinary adults in their capacity to formulate and implement the true moral principles. They routinely demonstrate an understanding of the need to attend and work hard in school; they willingly eat a balanced diet, and avoid dangerous and self-destructive habits and activities; they seem to choose their friends carefully, and are quick to avoid being exploited or abused in their personal relationships. Their capacity for good decision making may not be perfect, but they seem committed to learning from their mistakes and avoiding similar ones in the future. The same cannot always

One central aim of this study is to explore our moral duties to responsible children. Our commonsense intuition is that parents are entitled to interfere in the lives of responsible children, and do no wrong in subjecting them to the familiar battery of commands that aim to ensure compliance with the rules that they believe constitute the best life possible. Of course, we may believe that parents need not interfere. We may believe, in fact, that it would be best if they did not. But I suggest that we would not believe that if they did choose to interfere in the lives of their responsible children, they would be doing anything prohibited by morality. According to the commonsense view, responsible children may be treated *as if* they were entitled to liberty, but they nevertheless have no moral right to demand such treatment.

One may still find the above considerations less than worrisome. The fact that some children—and probably relatively few of them—achieve a higher level of rational competence sooner than their peers does not threaten commonsense beliefs about what we owe our children. We may concede that some children are more advanced than others in morally relevant ways, and yet insist that no children merit a claim to the liberty that ordinary adults enjoy. But I think a genuine dilemma emerges when we consider that responsible children routinely exhibit at least the rational competence of irresponsible adults who are endowed with a full measure of liberty rights. We believe that parents have the moral right to command their children to comply with their conception of the good and yet have no right to do the same to irresponsible adults. If the alleged difference between children and adults lies in a differential capacity for rational competence, how can we make sense of the moral permissibility of interfering in the lives of responsible

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be said for ordinary adults who retain their liberty rights despite persisting in profoundly self-destructive behavior.

children but not irresponsible adults? There seems to be a clear double standard that violates the deep moral intuition that like persons should be treated alike.

We can formulate the above puzzle as an inconsistent triad. Consider the following three premises, all of which seem very plausible, and yet they cannot all be true:

- 1) Only ordinary adults are entitled to liberty rights.
- 2) The reason that ordinary adults are entitled to liberty rights is that they possess the rational competence necessary to ensure free compliance with the moral principles that inform a minimally decent life.
- 3) At least some children possess the rational competence necessary to ensure free compliance with the moral principles that inform a minimally decent life.

In order to reconcile the above triad, we need to deny at least one of its propositions—but which one? Denying the first proposition, parental liberalism claims that responsible children are entitled to liberty rights.

Denial of the second proposition requires that we articulate a basis for the endowment and deprivation of liberty that does not depend on the differential capacity of children and adults to live a minimally decent life. The next chapter will consider and ultimately reject the possibility that parental authority is grounded in the special kind of relationship that exists between parent and child, rather than the child's intrinsic rational deficiency.

If we were to deny the third proposition, we would have to maintain that, despite all appearances to the contrary, responsible children have still not achieved a sufficient level of rational competence required for the granting of liberty rights. This denial would require us to press firmly on the distinction between performance and capacity—in effect,

maintaining that one may somehow hit upon the foundations of a minimally decent life, and yet still not have developed a sufficient degree of rational competence necessary to ensure free and reliable commitment to a minimally decent life. Unless one were prepared to maintain the implausible view that habitual performance provides unconvincing evidence as to intrinsic capacity, I think we should affirm that some children's habitual and free compliance with the dictates of a minimally decent life gives us reason to think that they have developed an adequate degree of moral competence necessary for the granting of liberty rights.

Parental liberalism endorses the extension of liberty rights to responsible children. In this way, the parental liberal contests commonsense propositions about the proper treatment of children. Nevertheless, I believe parental liberalism represents the least radical critique necessary in order to resolve the kinds of intuitive incoherence that I have described. Endorsing parental liberalism will require us to significantly revise how we think about and treat children. I believe, however, that this revision is necessary if we hope to show that parental authority can be not only necessary but also fair.

## ***Chapter 2: Thomas Hobbes and the Origins of Parental Authority***

Parental liberalism is fundamentally a rejection of unlimited parental authority. Parental liberals endorse the legitimacy of parental authority—in contrast to child liberationists—but only when it is exercised within surprisingly narrow limits. In order to provide a thorough defense of parental liberalism, it is necessary to assess the arguments in favor of competing conceptions of parental authority. In this chapter, I take up the arguments of the seventeenth-century English philosopher Thomas Hobbes in favor of unlimited parental authority.

The idea of unlimited parental authority seems obviously false. However much we may disagree as to the moral foundations of parental authority, we can certainly agree at the outset that there must be limits to the sorts of things parents may command of their children. If we already know that parental authority is limited, it might seem like a waste of time to even consider Hobbes's argument to the contrary. However, I think a careful analysis of Hobbes's position will prove profitable, even though it will come as no surprise that I reject his conclusions. In taking on Hobbes, we will have the opportunity to evaluate three claims typically made in support of parental authority: 1) parental authority arises from the benefits that parents confer on their children; 2) parental authority is grounded in the consent of the child; and 3) children are obligated to obey their parents' commands because they "owe their lives" to them. In the end, I argue that all three of these claims fail to justify parental authority, much less unlimited parental authority.

### ***Hobbes and the History of Patriarchalism***

The classical social contract theorists are read today mainly for their views on the nature and limits of political authority. However, it too often goes unnoticed that seminal thinkers in the social contract tradition, like Hobbes and Locke, dedicated significant attention to the exploration of authority relations between parents and children. Their persistent interest in parental authority reflects the backdrop of patriarchal political thought that dominated seventeenth-century England. Patriarchal political theorists in Stuart England believed that the absolute authority of the king over his subjects was nothing other than the evolved absolute power of the father over his children. In short, because political authority was identical to the natural authority of the parent, the theorist need only concern him- or herself with articulating a single, unified justification for authority.<sup>26</sup>

The revolution in political thought John Locke introduced in the late seventeenth century was to suggest that political and parental authority were different in kind. In contrast to the natural authority of parents, the authority of political rulers was conventional and grounded in the consent of the governed. The task of the political theorist, on Locke's view, was to explore the authority of political rulers and parents in what he saw as their distinctive spheres of influence. We will more closely examine Locke's rejection of patriarchalism in the next chapter. The important point for now is that a central controversy in seventeenth-century English political thought—the time and place in which the foundations of contemporary political theory were being laid—concerned the relationship between political and parental authority. Hobbes and Locke

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<sup>26</sup> For a detailed discussion of patriarchalism in seventeenth-century English political thought, see Gordon J. Schochet, *Patriarchalism in Political Thought* (New York: Basic Books, Inc., 1975).

may have entertained diametrically opposed views of the relationship, but no political theorist living in Stuart England could avoid taking sides on the question.

Hobbes's political thought is ultimately an unsuccessful attempt to reconcile patriarchalism and voluntarism. In this way, Hobbes can be seen as an important transitional figure, holding fast to patriarchal assumptions about the identity of political and parental authority, and yet also committed to an emerging contractualism that emphasized the moral force of consent. It is thus no surprise that Hobbes was an unapologetic absolutist when it came to both political and parental authority. Indeed, it could not be otherwise, since he held that the authority of the state is merely the authority of the family writ large. As Hobbes writes in his 1651 treatise *De Cive*:

*A Father*, with his *sonnes* and *servants* growne into a civill Person by vertue of his paternall jurisdiction, is called a *FAMILY*. This *family*, if through multiplying of *children*, and acquisition of *servants*, it becomes numerous insomuch as without casting the uncertain dye of warre, or cannot be subdued, will be termed an *Hereditary Kingdome*; which though it differ from an *institutive Monarchy*, being acquired by force in the original, & manner of its constitution; yet being constituted, it hath all the same properties, and the Right of authority is every where the same, insomuch as it is not needful to speak any thing of them apart.<sup>27</sup>

Hobbes saw the family as quite literally the building block of the state. On his account, the difference between the family and the state when it comes to authority relations is simply one of magnitude. So much so that the “[r]ight of authority,” he writes, is acquired in precisely the same way whether in the family or the state, “insomuch as it is not needful to speak any thing of them apart.”

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<sup>27</sup> Thomas Hobbes, *De Cive: Philosophicall Rudiments Concerning Government and Society*, ed. Howard Warrender (Oxford: Clarendon Press, 1983), 126. It is clear that Hobbes intends this historical account as more than a genetic explanation of hereditary monarchies. He believes that the historical origins of hereditary monarchy also constitute its justification.

Because he believes that political and parental authority ultimately share a common moral foundation, Hobbes assumes that the principles that justify the exercise of authority within the family are no different than those that govern the authority relations between rulers and subjects.<sup>28</sup> Indeed, Hobbes claims that because “great families” are nothing more than “little monarchies,” the authority of the father is simply the authority of the sovereign, albeit exercised over fewer subordinates.<sup>29</sup> Accordingly, there is much at stake in Hobbes’s arguments for absolute parental authority. Because he assumes that the normative foundations of political and parental authority are one and the same, Hobbes recognizes that his arguments for political and parental authority must rise and fall together. Thus, if his argument for absolute parental authority were shown to be false, then his argument in favor of absolute political authority also fails, and vice versa.

### ***Hobbes’s Argument for Absolute Political Authority***

To help us gain a critical perspective on Hobbes’s defense of unlimited parental authority, we should first begin with his argument for absolute political authority. It is true that Hobbes is correctly seen as an early and important contributor to modern political liberalism in that he aims to provide a justification for political authority that is equally compelling to all, and not just those in power. Hobbes strives to throw off the remnants of medieval Aristotelian philosophy and its claim that social and political

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<sup>28</sup> Hobbes’s contemporary, Sir Robert Filmer, echoes his patriarchal assumptions when he argues that the natural and absolute authority of kings originates in the natural and absolute authority of Adam over all creation. However, Filmer explicitly rejects voluntarism, arguing that Hobbes is mistaken in founding political authority on the consent of men, and not the natural and absolute authority of the father over his children. Filmer believes there is a deep incoherence between absolute parental authority and the voluntarist idea that men are not subject to authority to which they have not consented. If men were born subject to the absolute authority of their fathers, then they could not possess the natural liberty that makes voluntarism possible. See Sir Robert Filmer, *Patriarcha and Other Writings*, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1991), 185.

<sup>29</sup> Thomas Hobbes, *Leviathan*, ed. Edwin Curley (Indianapolis: Hackett Publishing Company, 1994), 132.

inequalities reflect the influence of a natural hierarchy that ordains the few fit to rule over the many. In its place, he seeks to show that political and social institutions can be explained and justified as the result of an agreement among individuals who are roughly equal in their physical and cognitive abilities.

Of course, it is also true that, in at least one respect, Hobbes's political thought is exceedingly illiberal. He is a notorious proponent of absolute government, refusing to accept any moral limits on the power of the ruler and insisting on a virtually unlimited obligation of the part of subjects to obey the commands of their sovereign. The great challenge for Hobbes is to tell a convincing story in which free and rational beings with non-tuistic motives come to agree to the imposition of absolute authority over their lives.

The details of Hobbes's account of political authority are familiar. He asks us to imagine a scenario—the state of nature—in which social and political authority relations do not yet exist. The state of nature is a place in which conventional notions of right and duty have no significance. Before the advent of civil society, Hobbes claims that all is morally permitted in the name of self-preservation. All are entitled to operate according to the “Fundamental Law of Nature”—discoverable by reason—that instructs every person to pursue peace but, when he cannot obtain it, to use any means necessary to secure his or her self-preservation.

Two factors ensure that the state of nature will be a miserable place to live. First, because all persons exhibit a rough equality in their cognitive and physical abilities—at least to the point that no one person is smart or strong enough to permanently dominate all others—all entertain equal hopes of attaining the means to their self-preservation. Second, there is a moderate scarcity of these means available (e.g., land, food, shelter,

etc.). There is not so much that competition for resources is unnecessary, and yet there is not so little that finding a way to satisfy everyone's basic needs is impossible. Taken together, rough equality and moderate scarcity ensure that in the absence of social cooperation, life in the state of nature must be—as Hobbes memorably puts it—“solitary, poor, nasty, brutish, and short.”<sup>30</sup>

Hobbes's famous solution to the state of nature is that every human being should comply with the “Second Law of Nature”—in other words, they should consent to enter into a social contract in which each voluntarily and permanently renounces his or her right to everyone and everything. By doing so, each wisely trades his or her unbounded natural right for a political right and its correlative duty to respect the laws that make possible those things necessary for “commodious living,” such as property, agriculture, industry, navigation, and the arts.<sup>31</sup>

Nevertheless, rational self-interest prevents one from renouncing one's natural right to everyone and everything without assurance that all others will do the same. To do otherwise would be to forgo the modest benefits of an unbounded natural right without a reasonable expectation to receive the overwhelming benefits of widespread social cooperation in return. An assurance problem looms and there is only one way to solve it, according to Hobbes: people in the state of nature should agree to renounce his or her right to each and all by transferring it to a third-party entity invested with the authority necessary to enforce general compliance with the law and adequately punish those who violate it. It is not enough, says Hobbes, for this third-party sovereign—the

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<sup>30</sup> Ibid., 76.

<sup>31</sup> Ibid., 78.

“Leviathan”—to wield overwhelming authority over its subjects. Its authority must be absolute.

If the sovereign’s authority is absolute, then it is permitted to issue any command to its subjects and may enforce those commands in any way it sees fit. Its subjects are morally obligated to obey all of its commands, except for those that violate the Fundamental Law of Nature, which subjects may never renounce, even after leaving the state of nature. Thus, Hobbes’s sovereign may command a subject to starve himself to death, but the subject is not obligated to obey. Rational self-interest motivates the social cooperation necessary to leave the state of nature, and also sanctions the refusal to comply with any and all commands that threaten one’s life and the means necessary for its support (i.e., property). However, barring such extreme consequences, Hobbes insists that subjects owe their ruler “simple obedience.”

It is here worth noting a puzzling ambiguity in Hobbes’s account. Hobbes argues that the problem of the state of nature is solved once all renounce their perfect liberty, and agree to invest a third-party sovereign with absolute authority. Yet it seems that the basic problem in the state of nature is not primarily a deficit of authority but one of physical power. Authority itself is a moral power that does not obviously ameliorate the misery of the state of nature were it not exercised by an entity also possessing the overwhelming physical power necessary to deter and incapacitate all who may be tempted to violate the terms of the social contract. It may be that Hobbes is assuming that all persons in a state of nature would necessarily obey an authoritative sovereign, but given his very thin notion of rationality—a merely instrumental one—it is difficult to see how the relationship between authority and obedience could be anything but contingent;

and if only contingent, then the assurance problem remains unsolved and the state of nature persists.

We may be moved to conclude that Hobbes's Leviathan must possess not only absolute authority but also overwhelming physical power. However, how people in a state of nature could ever come to endow an entity with overwhelming police power remains mysterious. Hobbes believes that the existence of an overwhelming third-party sovereign is necessary to solve the assurance problem that characterizes the state of nature. In this sense, an overwhelming sovereign is a precondition of civil society. But it is also clear that the creation of the sovereign is itself a product of a social agreement that people cannot have reason to make in the absence of such a sovereign. In this sense, the sovereign is also a product of civil society. If the sovereign is simultaneously a precondition and product of civil society, it is not clear how civil society ever gets off the ground.

Even putting aside this puzzle, one still has reason to wonder why the Leviathan's authority must be absolute. I think Hobbes offers two arguments for political absolutism. The first is an empirical consideration. He claims that without absolute authority, the sovereign will lack the overwhelming authority—and, let's assume, the physical power—needed to ensure that its subjects will not slip back into the state of nature. The plausibility of this claim is difficult to evaluate as it depends on a number of contingent psychological and environmental factors, but it is not obvious to me that something short of absolute authority wouldn't prove adequate to enforce general cooperation.<sup>32</sup>

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<sup>32</sup> Indeed, Hobbes's account seems to depend on a number of contingent facts about the psychology of persons in the state of nature. For instance, if persons in the state of nature were naturally endowed with a robust conscience that inflicted significant internal sanctions anytime they violated the social contract, it

The second consideration is logical, and I think constitutes Hobbes's definitive argument for absolute political authority. The establishment of political society involves a three-party agreement. We promise to renounce our natural right to everything so long as our fellow subjects promise to do the same. The sovereign stands completely outside the agreement, and yet is invested with the authority and power to enforce the compliance of individuals who may otherwise succumb to the temptation to violate the terms of the social contract. If the sovereign were to exercise only limited authority, then its subjects would stand in the same relation to the sovereign that they originally stand in relation to one another. If the sovereign's authority were to be limited in such a way that its subjects may make moral claims against it, then a further contract must be negotiated and subsequently enforced between the sovereign and its subjects. And who is to enforce this new contract except a new third-party entity also presumably invested with limited authority. We are off on an infinite regress of authority that cannot stop until we recognize that a solution to the problem of the state of nature requires that the third-party enforcer to the social contract remain outside of the agreement and unconstrained in any way by its terms. Thus, the logic of the social contract—upon pain of infinite regress—requires the absolute authority of the sovereign.

There is a glaring problem with Hobbes's picture of a sovereign entirely independent of the social contract. If the sovereign is truly outside the social contract, then what reason do persons in the state of nature have to think that it will reliably enforce its terms in a fair and effective way? More to the point, what reason is there to think that Hobbes's sovereign will concern itself at all with enforcing the social contract?

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would be all the more implausible to think that unlimited authority or power would be necessary to keep them in line.

Remember, the sovereign is perfectly independent, enjoying absolute authority and power to issue and enforce any commands it wishes. The considerable downside to Hobbes's solution is the creation of a sovereign entity that poses a far greater moral and physical threat than any person or group possibly could have in the state of nature. Hence, Locke's trenchant criticism that Hobbes must think "men so foolish that they take care to avoid what Mischiefs may be done by *Pole-Cats*, or *Foxes*, but are content, nay think it Safety, to be devoured by *Lions*."<sup>33</sup>

I agree with philosophers who have identified serious problems with Hobbes's argument for absolute political authority.<sup>34</sup> Nevertheless, I have presented his argument for unlimited political authority because I think it helps shed light on the deficiencies in Hobbes's account of absolute parental authority.

In the remainder of this chapter, I make two broad criticisms of Hobbes's defense of absolute parental authority. First, I argue that many of the considerations Hobbes raises in his defense of absolute parental authority do not generate parental claims of authority over children. Second, I claim that insofar as Hobbes may succeed in establishing some degree of parental authority, he fails to justify absolute parental authority.

### ***Hobbes on the Moral Foundations of Absolute Parental Authority***

Starting in the 1640s, when Hobbes set to work on a string of texts that would establish the foundations of modern political theory, Hobbes was already disdainful of earlier attempts to account for the authority of parents over their children. His desire to

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<sup>33</sup> John Locke, *Second Treatise of Government*, §93, 50.

<sup>34</sup> For another compelling criticism of Hobbes's argument for political absolutism, see Jean Hampton's critique of the "Regress Argument" in her *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986), 98–105, 197–207.

transcend the Aristotelian conflation of natural inequalities of power with legitimate inequalities of authority led him to dismiss any account that premised parental authority on the mere biological fact that parents beget their children. Thus he complains in *De Cive* about Hugo Grotius, who sixteen years earlier parroted the Aristotelian line when he argued that “[b]y generation parents acquire a right over their children.”<sup>35</sup> In response, Hobbes writes:

Those that have hitherto endeavoured to prove the Dominion of a *Parent* over his *children*, have brought no other argument then that of *generation*, as if it were of it selfe evident, that what is begotten by me, is mine; just as if a man should think, that because there is a triangle, it appears presently without any farther discourse, that its angles are equall to two Rights.<sup>36</sup>

Hobbes emphasizes the logical gap between the biological fact of generation and the origins of absolute authority, or “dominion,” as he sometimes prefers. Now it may be that generation does give rise to absolute parental authority, but that is certainly not nearly as “selfe evident” as Grotius seems to assume in his seminal 1625 work, *The Law of War and Peace*. Hobbes is demanding an argument for parental authority, and in its absence goes on to offer one that deviates from the presuppositions that scholastic philosophers had been relying on for centuries.

Hobbes’s advocacy of absolute parental authority represents a radical break with the scholastic philosophical tradition’s treatment of children. Following Aristotle, Grotius defends a conception of limited parental authority sensitive to the moral faculties of

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<sup>35</sup> Hugo Grotius, *The Law of War and Peace*, trans. Francis W. Kelsey (Indianapolis: The Bobbs-Merrill Company, 1925), 231.

<sup>36</sup> Warrender, 122.

children as they progress through three distinct stages of moral development.<sup>37</sup> During the first stage of infancy, in which children exercise “imperfect judgment,” it is appropriate that parents rule over their children. It is not clear from Grotius’s text what this “rule” consists in, but it is clear that it is not absolute dominion. From birth onward, Grotius claims that children enjoy the right to own if not “use” property. In any case, Grotius explicitly claims that once a child’s judgment has matured, his or her actions are no longer subject to the authority of its parents unless the family’s honor and reputation are at stake.<sup>38</sup> For Grotius and others still working within the tradition of scholastic philosophy, parental authority is limited in both scope and duration.

In contrast, Hobbes believes that children ought to be in “most absolute subjection” to their parents.<sup>39</sup> He claims that in exercising dominion over his or her child, a parent is morally permitted to sell or give their children as servants to others. They may trade them for hostages, kill them if they prove rebellious, and, in general, may sacrifice them whenever they deem it necessary to preserve or promote their own self-preservation. There are thus no limits on how parents may treat their children, nor do parents have any obligation to care for their children in the first place.

On Hobbes’s view, the absolute authority of the parent over the child is a direct expression of the parent’s natural right to everything and everyone in a state of nature. Granting Hobbes his fundamental claim that such a right exists before the advent of social and political institutions, the interesting question is not how Hobbes might justify what parents may do to their children, but only why children would be obligated to obey

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<sup>37</sup> Grotius, 231.

<sup>38</sup> *Ibid.*, 232.

<sup>39</sup> Thomas Hobbes, *The English Works of Thomas Hobbes of Malmesbury*, ed. Sir William Molesworth (London: John Bohn, Henrietta Street, Covent Garden, 1840), 4:157.

their parents' commands. The question of parental authority in Hobbes is primarily the question of filial obedience. The claim that parents have an unlimited right to treat their children in whatever way is conducive to their self-preservation is secure once we grant Hobbes his fundamental premise regarding an original right to each and all.<sup>40</sup>

Given Hobbes's claim that the principles of parental authority are identical to those of political authority, I assume that while parents are invested with absolute authority, children are not obligated to obey all parental commands. For the same reason that subjects are not obligated to comply with their sovereign's command that they kill themselves, children are not obligated to obey those parental commands that undermine their own self-preservation. Thus, parental authority may be unlimited, but the obligation of children to obey their parents is not. Still, it should be seen that this obligation is very robust and is only relaxed in extreme cases where the child's life hangs in the balance. To take into account this one qualification on the obligation of compliance, we should say that Hobbes believes that parents may command anything, and that their children are obligated to obey *virtually* all of their parent's commands.<sup>41</sup>

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<sup>40</sup> Of course, one may wonder why we should concede so much to Hobbes in the way of fundamental premises. It is not as if his presuppositions are uncontroversial; indeed, Locke's political philosophy begins by refuting the Hobbesian conception of the state of nature. Why shouldn't we follow Locke's lead in at least considering denying Hobbes his rhetorical starting point? Here's my response: a willingness to concede Hobbes's fundamental premises for the sake of argument should not be confused with an endorsement of their truth, all things considered. The idea is that the strength of a refutation of Hobbes's argument is directly proportional to the charity of our interpretation. If it can be shown that Hobbes's argument fails even though we have given him the benefit of the doubt whenever possible, I think our refutation only gains credibility.

<sup>41</sup> If I am right in interpreting Hobbes to believe that parents may be entitled to enforce their children's compliance with any and all commands, and yet children are not obligated to comply with any commands that undermine their prospects for self-preservation, it is then clear that Hobbes's conception of authority is distinct from the one I defined in chapter 1 as the moral power to require action. On my proposed definition, if Mary has absolute authority over John (i.e., Mary has the moral power to require John to act in accordance with all her commands), then John is necessarily obligated to obey all of Mary's commands. Obligations of obedience are necessarily implied in the concept of an authoritative command. On Hobbes's view, in contrast, the right to command and the obligation to obey comes apart when a command is inconsistent with the recipient's self-preservation. Because he believes that all claims of authority are

Inasmuch as the scope of parental authority is unlimited, Hobbes claims that the duration of parental authority over a child is also unlimited. So parents may exercise unlimited power over all aspects of a child's life, and may do so in perpetuity. Hobbes explicitly compares the moral situation of children to that of subjects and servants. Indeed, in all three cases, he claims that the political sovereign, master, or parents exercise unlimited authority, unless the subject, servant, or child is freed by an explicit act of emancipation.<sup>42</sup> Moreover, parental authority extends to the "children of the child, and over their children's children."<sup>43</sup> If this were not the case, Hobbes argues, then we could not say that parents have genuine dominion over their children, but only some semblance of it.<sup>44</sup>

Hobbes's view of parental authority as unlimited in duration also helps to explain his exclusive focus on justifying the authority of parents over very young children— neonates, in fact—who exhibit extreme dependence and vulnerability. This indifference to the question of parental authority over older children more capable of securing their self-preservation makes sense given Hobbes's insistence that parental authority remains forever in force. If Hobbes can demonstrate the origins of absolute parental authority over very young children, he need not worry about the institution of parental authority over older children, who despite their cognitive and physical development remain nevertheless obligated to obey virtually all of their parents' commands.

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ultimately founded on the individual's right to self-preservation, Hobbes endorses a peculiar conception of authority in which unlimited rights to command are paired with limited obligations to obey.

<sup>42</sup> Warrender, 124.

<sup>43</sup> Curley, 130.

<sup>44</sup> If parental authority is unlimited in duration and extends to the children of children *ad infinitum*, one may wonder whether any parent has ultimate authority over his or her children, assuming that he or she may still be subject to the authority of his or her own parent. Hobbes's account may seem incoherent in advocating a conception of parental authority that undercuts parental authority. Hobbes needs to say more here, but I assume he has a way out: children may be emancipated from parental authority either through an explicit act of emancipation or the death of their parent.

Hobbes's radical departure from the Aristotelian conception of parental authority is complemented by what his contemporaries must have seen as an equally radical idea of which parent may exercise authority. In contrast to scholastic thinkers who claimed that generation endowed both the father and the mother with the right to rule over their children, Hobbes claims that parental dominion cannot be shared by parents but must rest entirely in either the mother or the father. His argument against shared parental authority is that because parental authority is absolute, no child can be subject to the unlimited authority of more than one person. Because "no man can obey two masters" in the event that their commands conflict, it follows that no child can be obligated to obey more than one absolute sovereign.<sup>45</sup>

Assuming that only one parent may exercise absolute authority over the child, which parent should it be? Hewing to the Aristotelian line, Grotius claims that authority originally rests in both the father and the mother, and only devolves to the one in the case of a conflict in their commands; and on his view, the father ought to be given preference over the mother "on account of the superiority of the sex."<sup>46</sup> It is no surprise that Hobbes rejects Grotius's appeal to an alleged natural hierarchy of the sexes to determine which parent should naturally rule over the child. In what sense, he asks, is the alleged "superiority" of men relevant in determining the origins and exercise of parental authority? He concedes that men are naturally physically stronger than women but wonders why that fact alone "should generally and universally entitle the father to a propriety in the child, and take it away from the mother."<sup>47</sup> In the absence of a morally

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<sup>45</sup> Curley, 128.

<sup>46</sup> Grotius, 231.

<sup>47</sup> Molesworth, 155.

relevant superiority, Hobbes claims that the Aristotelians have failed once again to demonstrate the necessary connection between natural inequality and moral authority.

Instead, Hobbes insists that the mother alone is originally endowed with authority over her child. He claims that in the state of nature—without the benefit of law to determine patrimony—there is no definitive way to know who is the father of a child except through the testimony of the mother. Even if the mother were to testify that so-and-so is the father of her child, Hobbes claims that it is still fully up to the mother to establish patrimony or deny it, and therefore the identity of whoever it is that ultimately wields authority over the child is ultimately the product of her discretion and no other.<sup>48</sup>

Even if we were to concede Hobbes's claim that mothers alone are originally endowed with authority over their children, we still need to know what justifies the exercise of parental authority in the first place—not to mention absolute parental authority. Unfortunately, trying to figure out Hobbes's argument for unlimited parental authority is no simple matter. Indeed, in a recent article, Peter King has suggested that Hobbes offers three distinct arguments in favor of absolute parental authority, and that all of these fail.<sup>49</sup> I think King is wrong, at least on one count: Hobbes's account of unlimited parental authority may not work, but I believe that he ultimately offers only one argument for absolute parental authority—the argument from consent. In the remainder of this chapter, I attempt to show the unity of Hobbes's approach to the question of parental authority, before arguing that Hobbes's principal argument fails to establish parental authority, much less parental authority without limits.

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<sup>48</sup> Warrender, 123.

<sup>49</sup> Peter O. King, "Thomas Hobbes's Children," in *The Philosopher's Child: Critical Perspectives in the Western Tradition*, eds. Susan M. Turner and Gareth B. Matthews (Rochester, NY: University of Rochester Press, 1998), 65–83.

### *Hobbes's Argument from Parental Power*

As previously mentioned, Hobbes rejects the Aristotelian conflation of natural inequality with normative inequality. There may be many aspects of Hobbes's ethics that we reject, but there is at least one consistent theme in Hobbes that we can endorse: might does not make right. However, when we come across certain passages in Hobbes, we may be tempted to conclude that he failed truly to take this insight to heart. For instance, consider the following passage from *The Elements of Law*:

The title to dominion over a child, proceedeth not from the generation, but from the preservation of it; and therefore in the estate of nature, the mother, in whose power it is to save or destroy it, hath right thereto by that power, according to that which hath been said, Part I. Chapter [xiv]. Sect. 13 . . . <sup>50</sup>

If we are not careful here, we may interpret the above passage as the claim that a mother's authority over her child originates in the power of the mother to save or destroy her child. Falling prey to this misinterpretation, King rightly wonders how the mother's "power . . . to save or destroy" her child may give rise to her moral right to dominion over it.<sup>51</sup> To think that the mother's natural power over the life of the child is enough to ground the child's obligation to obey seems to recapitulate the Aristotelian conflation between descriptive and normative power that Hobbes set out to overcome in his ethics.

However, when we turn to part I, chapter 14, section 13 in *The Elements of Law*—as Hobbes directs us to do—we find the following passage:

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<sup>50</sup> Ibid., 68.

<sup>51</sup> Ibid.

Seeing this right of protecting ourselves by our own discretion and force, proceedeth from danger, and that danger from the equality between men's forces, much more reason is there, that a man prevent such equality before the danger cometh, and before the necessity of battle. . . . He therefore that hath already subdued his adversary, or gotten into his power any other, that either by infancy or weakness, is unable to resist him, *by right of nature may take the best caution, that such infant, or such feeble and subdued person can give him, of being ruled and governed by him for the time to come.* [emphasis mine]<sup>52</sup>

In this passage, Hobbes notices that the same consideration—our self-preservation—that leads one in the state of nature to enter into mutual covenants also leads one to dominate those who are not yet his equals in strength or intelligence (i.e., the weak and the very young). But Hobbes is hinting here that one's natural domination of the weak and the very young does not in and of itself generate authority. As Hobbes writes, the conqueror has “already subdued his adversary,” and yet the fact of domination is not matched by a correlative duty of obedience until he extracts “the best caution, that such infant, or such feeble and subdued person can give him.” What is the “best caution” that Hobbes has in mind? It would seem to be something that must be given, not simply taken—such as the consent of the vanquished to “being ruled and governed by him for the time to come.”

This reading of Hobbes's passage conflicts with King's claim that Hobbes really believes that “[m]ight— ‘irresistible’ by factual gross inequality—makes right without any need for contract.”<sup>53</sup> According to King, Hobbes's first argument for parental authority claims that we have dominion over the weak and the very young in the same way that we have dominion over brute animals in the state of nature (i.e., no notion of contract or consent is required). On my proposed reading, Hobbes—wary of confusing

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<sup>52</sup> Ibid., 68–69.

<sup>53</sup> Ibid., 69.

might with right—already has in mind the need for consent in order to transform the descriptive fact of domination into the normative entitlement of dominion.

### ***Hobbes's Argument from Filial Gratitude***

Hobbes's alleged second argument for unlimited parental authority is that filial obedience to parental authority is the proper response to the benefits conferred by the parent on the child.<sup>54</sup> As evidence, King quotes Hobbes's remark in *De Cive* 9.4:

The life that the mother gave [to the child] (not by giving birth to it but by nourishing it) she takes away by exposing it. Accordingly the obligation that sprang from her gift of life was cancelled through her exposure.<sup>55</sup>

King criticizes the idea that past benefits—even one as valuable as the “gift of life”—can explain the occurrent obligation of young children to obey the commands of one's parent. On his view, gratitude is a retrospective sentiment that arises when one appreciates the value of what one has been given. Thus, he claims that it is difficult to see how an appeal to gratitude alone can explain the present obligations of young children who are perhaps not yet able to appreciate the value of the benefits conferred by their parent.

In addition, King argues that Hobbes's emphasis on the moral implications of the benefits conferred by a parent fundamentally misconstrues the nature of parental motivation. Parents often give to their children without expectation of return. They are often motivated by love and a desire for mutuality rather than reciprocity.<sup>56</sup> Thus, King claims that Hobbes's contractarian approach to parent–child relations cannot make sense

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<sup>54</sup> Ibid., 70.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid., 72.

of parental love because it cannot entertain the possibility that parenting may be motivated by a desire to further the interests of another person, and not simply one's own.

In response to King, I simply want to suggest that the passage he quotes from *De Cive* is not indicative of Hobbes's views on the nature or moral implications of the mother's "gift of life." On my reading, the benefits parents confer on children in Hobbes's state of nature are more akin to commodities than gifts. Rather than an expression of unconditional love, Hobbes's parents only choose to nourish their children when they have reason to believe that the burdens of care will be outweighed by the benefits of filial subordination. On my interpretation of Hobbes, the absolute moral authority of parents originates in their overwhelming bargaining power, and not their alleged generosity.

Furthermore, King misses an important feature of Hobbes's methodology when he criticizes his contractarian project for failing to account for the tuistic nature of parental motivation. In fact, Hobbes acknowledges that parents have a natural love for their children. He writes that the question of parental authority:

. . . lieth now in the state of mere nature, where there are supposed no laws of matrimony, no laws for the education of children, but the law of nature, and the natural inclination of the sexes, one to another, and to their children.<sup>57</sup>

A "natural inclination" exists between the sexes as well as their children in the state of nature. However, Hobbes's overall method is not to rely on relatively strong claims regarding the universality of tuistic motives in trying to establish the rationality of law and ethics. Instead, he attempts the more ambitious project of showing that social

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<sup>57</sup> Curley, 128–129.

institutions can be explained as the outcome of nothing more than instrumental reason and the natural desire for self-preservation. When it comes to parents, Hobbes recognizes the existence of parental love, but he does not want his account of parental authority to depend on the universality of parental love. If he can succeed in constructing absolute parental authority on the plausible and weaker claim that parents are motivated by a desire for self-preservation, then the fact that some parents also happen to love their children only serves to strengthen his case.

Even if Hobbes were to argue that filial obedience is the required response to the benefits parents confer on their children, King omits the strongest possible objection one can make to this familiar argument. For my part, I think it's plausible that the parent's conferral of certain benefits may actually give rise to an obligation on the part of the child to act in a certain way, but this modest concession falls far short of establishing the full scope of parental authority, and certainly not absolute parental authority.<sup>58</sup> In light of the parent's conferral of the benefits of life and the most basic goods necessary for the preservation of the child, I think the child may have an obligation of gratitude, but everything then hinges on what we think the duty of gratitude entails.

One thing is certain about the duty of gratitude: it is highly implausible that one can only discharge one's duty of gratitude to one's parent by obeying their commands. In response to parental generosity, a child may be morally required to express thankfulness, or to treat their parents in a respectful manner.; however, it is hard to see how gratitude

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<sup>58</sup> On the other hand, this concession violates what I later call Hobbes's "strict voluntarism"—the idea that an agent's moral obligations may only arise on the basis of his or her voluntary action. In this chapter, my conviction that Hobbes is deeply committed to strict voluntarism shapes my interpretation of his work, and yet the reader should notice that I do not endorse strict voluntarism.

must entail obedience to one's parents, and even more difficult to see how it requires ceding to them absolute authority over one's life.

Hobbes's own remarks about the importance of gratitude support the claim that gratitude for benefits conferred does not necessarily entail obedience to the benefactor's commands. For Hobbes, the duty of gratitude is considered an immutable law of nature because it fosters trust among persons in the state of nature, and thus facilitates the departure from the state of nature into civil society. The question of gratitude, on his view, is only relevant for children who have been emancipated from parental subjection. Emancipated children, although no longer subject to the authority of a parent, are nevertheless obligated to "promise all those externall signes, at least whereby Superiours used to be *Honour'd* by their inferiors."<sup>59</sup> Thus, Hobbes claims that gratitude requires a child to honor their parent not with obedience but only with the customary protocol—bowing, tipping of the hat, etc.—that recognizes and acknowledges the parent's past authority.

More substantially, Hobbes claims that emancipated children—like all emancipated servants—are morally obligated not to dominate or contest their parents because it is assumed that parents in the state of nature would never have granted their emancipation if it meant a threat to their continued security. The obligation to show gratitude to one's parents, in Hobbes's account, ultimately emerges as a precondition to the rationality of emancipation, without which parents would have little reason to release their children from the moral bonds of obedience.<sup>60</sup> Thus, Hobbes argues that we are warranted in assuming that all emancipated children have in fact promised to honor their

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<sup>59</sup> Warrender, 124–125.

<sup>60</sup> The structure of Hobbes's argument for the duty of gratitude foreshadows his later argument that is meant to show that children have actually consented to the absolute authority of their parent.

parents, even after their liberation. The “precept of *honouring* our Parents,” according to Hobbes, is not only a duty of gratitude but also one ultimately grounded in the consent of the child.<sup>61</sup>

### ***Hobbes’s Argument from Consent***

As I have tried to suggest, the category of consent plays a consistent if not always explicit role in Hobbes’s reflections on parental authority. Even in cases where consent does not seem to be doing much work, I believe it remains the foundation of filial obedience to Hobbes. In any case, he is unmistakably clear when he writes in *Leviathan*:

And [paternal dominion] is not so derived from the generation as if therefore the parent had dominion over his child because he begat him, but from the child’s consent, either express or by other sufficient arguments declared.<sup>62</sup>

In this passage, Hobbes explicitly claims that absolute parental authority is derived from the consent of the child “either express or by other sufficient arguments declared.” In other words, there can be no parental authority without the actual consent of the child, either express or tacit. Earlier in *Leviathan*, Hobbes explains that express consent is a matter of uttering certain words in an appropriate context, whereas tacit consent—Hobbes’s “signs of contract by inference”—is sometimes a matter of uttering certain words and sometimes a matter of remaining silent, sometimes a matter of acting a certain way, and sometimes forbearing action.<sup>63</sup> In any case, what all instances of tacit consent

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<sup>61</sup> Ibid.

<sup>62</sup> Curley, 128.

<sup>63</sup> Ibid., 83.

have in common, according to Hobbes, is that all “sufficiently argue the will of the Contractor.”<sup>64</sup>

Hobbes’s argument from consent represents his principal argument for absolute parental authority. His emphasis on consent is consistent with his most fundamental moral claim that there can be no moral “obligation on any man which ariseth not from some act of his own; for all men equally are by nature free.”<sup>65</sup> Let’s call this Hobbes’s commitment to “strict voluntarism.” Being a strict voluntarist, Hobbes believes that filial obligations of obedience cannot be established without the consent of the child. Moreover, Hobbes seems to believe that insofar as parental authority originates in the consent of the child, this consent must be actual—although either express or tacit—and not what is called “hypothetical” consent. Hypothetical consent encompasses what one would agree to in a certain situation given a certain hypothesis (e.g., were one to possess all the relevant information, perfect rationality, etc.). On Hobbes’s view, absolute parental authority is legitimate only if a child actually consents to the absolute authority of its parent, although this consent may be either express or tacit. In both cases, however, the child is thought to intentionally signal its agreement to not only the authority of its parent but also, if Hobbes is right, to the absolute authority of its parent.

Because Peter King believes that Hobbes presents two arguments for parental authority in which consent does not play a significant role, he concludes that Hobbes’s arguments are inconsistent with his strict voluntarism. On my interpretation, Hobbes’s argument for absolute parental authority remains true to his strict voluntarism because he ultimately offers only one argument for parental authority: the argument from consent.

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<sup>64</sup> Ibid.

<sup>65</sup> Ibid, 141.

The challenge of any argument for absolute authority based on consent is to show why it would be reasonable for anyone to agree to the comprehensive moral power of another person.

Before further examining Hobbes's voluntarist argument for absolute parental authority, it is helpful to first notice the asymmetry between Hobbes's argument for political absolutism and parental absolutism. In the political case, roughly equal individuals agree to comply with a social contract so long as there is a third party of absolute authority and sufficient power to enforce the terms of the contract. When we turn to the situation of parents and children in the state of nature, we find Hobbes claiming that absolute authority is not invested in a third-party enforcer, but rather in the parent him- or herself. What I think this suggests is that Hobbes needs to articulate a distinctive argument for parental absolutism that doesn't rely on the logical considerations he appeals to when defending the absolute authority of political rulers. In justifying absolute parental authority, Hobbes owes us an original argument that is relevant to the particular case of parents and children.

Hobbes offers just such an argument in the following passage from *Leviathan*:

Again, seeing the infant is first in the power of the mother, so as she may either nourish it or expose it, if she nourish it, it oweth its life to the mother, and is therefore obliged to obey her rather than any other, and by consequence the dominion over it is hers. But if she expose it, and another find and nourish it, the dominion is in him that nourisheth it. For it ought to obey by whom it is preserved, because preservation of life being the end for which one man becomes subject to another, every man is supposed to promise obedience to him in whose power it is to save or destroy him.<sup>66</sup>

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<sup>66</sup> Ibid., 129–130.

Hobbes here argues that in the state of nature, the mother has the moral right to either nourish her child or to destroy it. If the mother chooses to abandon the child, and another chooses to nourish it, then the child is obligated to obey its primary caregiver. As Hobbes states, “the dominion is in him that nourisheth” the child.<sup>67</sup> Now if we are not careful, we may conclude that filial obligations arise simply from the fact of nourishment. I have already suggested that we should be wary of that interpretation because it seems to conflict with Hobbes’s fundamental commitment to strict voluntarism. I have also suggested that there are independent philosophical reasons to think that the mere conferral of benefits may give rise to an obligation of gratitude, but it is very hard to see how it could give rise to filial obligations of absolute obedience. But the most compelling reason to resist this interpretation is that it simply cannot make sense of the rest of the passage. In which Hobbes goes on to say that the child should obey whomever provides its nourishment because “every man is supposed to promise obedience to him in whose power it is to save or destroy him,” or as Hobbes puts it earlier in the passage, to those to whom the “child owes its life.” If the fact of nourishment alone were enough to establish filial obedience, then what do we make of all this talk about “promising obedience”? That sounds like an unmistakable appeal to consent.

Here’s an attempt to present Hobbes’s argument from consent in more formal terms:

- (1) In the state of nature, the child owes its life to whoever chooses to nourish it.
- (2) In the state of nature, a child consents to the absolute authority of those to whom it owes its life.

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Therefore, if a mother chooses to nourish it, a child is morally obligated to obey virtually all of her commands.

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<sup>67</sup> Hobbes distinguishes between social and biological senses of the word “parent.” In this instance, “parent” refers to the child’s primary caregiver, and not simply the woman who gave birth to it.

The first premise of the argument states that the child “owes its life” to whomever chooses to provide the basic nourishment required for its survival. Were the mother to choose not to nourish the child—and no other person chooses to do otherwise—the child would surely perish. It is because the child’s life depends on the mother that we say it owes its life to her.

The second premise of Hobbes’s argument states that a child in the state of nature actually consents to the absolute authority of those to whom it owes its life (e.g., those who nourish it). Like adults, children in the state of nature are and should be motivated by a desire for self-preservation, and thus have a reason to prefer any state of affairs to death. Insofar as submission to the absolute authority of its parent is a condition of its nourishment, the child readily consents to its subordination.

The conclusion clearly follows from the premises. Because a child owes its life to its mother if she chooses to nourish it, and the child consents to the absolute authority of whomever it depends on for survival, the child is therefore obligated to obey virtually all of her commands. Absolute parental authority is supposedly established.

I think there are three serious problems with Hobbes’s argument from consent. First, I think his claim that a child consents to the absolute authority of those to whom it owes its life leads to an intuitively implausible consequence. Second, I think an examination of the conditions under which Hobbes believes children consent to the authority of their parents suggests that it would not be rational for children to consent to absolute parental authority. Third, I suggest that Hobbes’s emphasis on the actual consent

of children raises serious problems when trying to account for parental authority over very young children.

Taking up the first criticism, there are two problems with predicating authority on the idea that we owe our lives to others. The first puts pressure on the counterfactual analysis of the first premise (i.e., that a child owes its life to its parent). How do we know that the child would have died had its parent chosen not to nourish it? Hobbes himself considers the possibility that others might step in to provide the nourishment necessary for the child's survival. Without ruling out this possibility, the force of the claim that a child would have died had its parent chosen to not nourish it is undermined. And it is no help to say that the child owes its life to whoever it is that eventually steps in to nourish the child, unless we can rule out the possibility that no one else would have stepped in to nourish the child. If we cannot, then Hobbes cannot say that a child owes absolute obedience to whomever it owes its life.

In the case that we could somehow stipulate that no one else would have stepped in to nourish a child other than its current caregiver, Hobbes's argument still leads to an intuitively implausible implication. If the first problem with Hobbes's claim that we consent to those to whom we owe our life is that it establishes the authority of too few people—not even one—the second problem with Hobbes's claim is that it also justifies the authority of too many. In specifying what it means to owe our life to somebody, it is natural to focus on cases in which our survival depends on another person acting a certain way (e.g., nourishing us at a time when we cannot provide nourishment for ourselves). But it is equally plausible to think that our survival—even long past our infancy—also depends on other people not acting in certain ways (e.g., not strangling us with their bare

hands, or not starving us to death). Do we owe our life to just anyone who refrains from killing us? If so, we owe our lives to many, many people with whom we interact on a daily basis. And if that is right, then Hobbes's reasoning commits us to thinking that we are morally obligated to obey the commands of an implausibly large number of people, and offers no reason why parents wield any distinctive authority over their children.

One may object that there is a difference between a parent acting to provide for our nourishment and someone who simply refrains from acting toward us in a harmful way. I would agree that there is a difference, but not that there is much of a *moral* difference between the two cases. In both, our survival depends on persons acting in certain ways or refraining from acting in certain ways; thus we can plausibly say in both cases that we owe our lives to others. In the end, Hobbes's reasoning produces the absurd result that we owe absolute obedience to just about everyone we know who does us the favor of not killing us, and this is just too much for us to swallow as an account of absolute parental authority.

The second criticism of Hobbes's argument from consent is that it doesn't establish the absolute nature of parental authority. To see why this might be, it is helpful to consider Hobbes's account of parental authority alongside his account of the authority of the master over the servant, or what Hobbes calls "despotical authority." Despotical authority is not unrelated to parental authority in Hobbes's texts. In fact, he interrupts his discussion of parental authority in *Leviathan* with an argument for the absolute authority of master over servant. For Hobbes, the plight of the servant is identical to the plight of the child, and thus provides insight into the conditions under which Hobbes believes a child actually consents to the absolute authority of its parent.

Hobbes's argument for the absolute authority of master over servant begins by imagining a scene in which prisoners of war have been taken in battle and are then offered the choice of immediate death or consenting to servitude. In the *Leviathan*, he writes:

And this dominion [of master over servant] is then acquired to the victor when the vanquished, to avoid the present stroke of death, covenanteth either in express words, or by other sufficient signs of the will, that so long as his life and the liberty of his body is allowed to him, the victor shall have the use thereof, at his pleasure. And after such covenant is made, the vanquished is a Servant, and not before . . .<sup>68</sup>

In Hobbes's story, the vanquished—emulating the dependency that characterizes the child—are at the mercy of the victor who may run them through if he so desires. In order to “avoid the present stroke of death,” the vanquished consents “either in express words, or by other sufficient signs of the will” that so long as he is not imprisoned or killed, he recognizes the authority of the master to command him and make use of his labor “at his pleasure.” Hobbes emphasizes that it is only after the vanquished actually consents, and not before, that he is under any obligation of obedience to the victor, and is now morally prohibited from resisting or doing any violence to his master.<sup>69</sup>

Hobbes's commitment to strict voluntarism once again informs his account of the authority of master over servant. As he makes clear, it is not “the victory that giveth the right of dominion over the vanquished, but his own covenant.”<sup>70</sup> The consent of the vanquished obliges the servant to obedience, but “obliges not the victor longer than in his own discretion he think fit.”<sup>71</sup>

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<sup>68</sup> Ibid., 130.

<sup>69</sup> Ibid., 131.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

Nevertheless, there is an important concession in Hobbes's account of despotical authority that undercuts his absolutist argument. In order to make the consent of the vanquished rational, Hobbes must admit limitations on the authority of the conqueror. Thus, the vanquished only consents to the authority of the conqueror if the prospective master agrees to renounce his perfect liberty over the vanquished in exchange for the servant's obedience. But the vanquished only consents to become the master's servant if the master agrees to spare his life and grant him freedom from imprisonment. Presumably, were the master to break either promise, the servant's obligation to obey would no longer be binding. In this way, Hobbes's account of despotical authority seems to justify a robust but not absolute authority of master over servant.<sup>72</sup>

This may seem like an insignificant point against Hobbes. For even if the authority of the master is not technically absolute (as is the authority of the political ruler), it is still substantive enough to render despotic authority virtually absolute. Indeed, at first glance, the life of the servant can seem awful, if not absolutely horrendous. Obligated to toil under another man's authority and only guaranteed life and a modicum of personal freedom, the servant extracts meager concessions from his master. However, the extent of the limitations on a master's authority may be more extensive than Hobbes first suggests. In a passage from *De Cive*, in which Hobbes argues that the servant has no reason to resent his station in life, he writes:

For my part therefore I cannot finde what reason a meer *servant* hath to make complaints, if they relate onely to want of *liberty*, unlesse he count it a misery to be restrained from hurting himselfe, and to receive that life, (which by warre, or misfortune, or through his own idleness was forfeited)

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<sup>72</sup> There is no assurance problem when it comes to despotical or parental authority. In both cases, the rough equality of power that makes it so dangerous to take the first step toward social cooperation in the political case does not obtain. Thus, the master or the parent may safely take the first step toward cooperation without fearing attack from an already subjugated party.

together with all manner of sustenance, and all things necessary to the conservation of his health, on this condition only, that he will be rul'd: for he that is kept in by punishments layd before him, so as he dares not let loose the reines to his will in all things; is not opprest by *servitude*, but is governed and sustained.<sup>73</sup>

In claiming that the servant has reason to consent to the authority of its master, Hobbes elaborates on the conditions under which the servant's consent is rational. Instead of merely being guaranteed life and freedom from imprisonment, servitude is now defended as a restraint on the servant's own self-destructive tendencies, and a way to secure one's life "together with all manner of sustenance, and all things necessary to the conservation of his health." This is a significant expansion of the servant's entitlements. In agreeing to obey his master, the servant not only wins the right to life, but also the right to a healthy life. It is still somewhat ambiguous what a right to health may entail, but we have definitely moved away from a picture of servitude as utter subjection to the virtually unbounded liberty of a master. Moreover, Hobbes here emphasizes that servitude is not just the best bargain the vanquished can obtain, but is in fact a positive good for the servant.

Upon reflection, this is a not an entirely surprising result. How else could Hobbes justify the rationality of consent to another's authority except by showing the ways in which subjection may be in one's best interests? It is not obvious that one would not have reason to prefer death to the most extreme forms of subjection. In order to provide a compelling account of despotic authority, it is necessary to demonstrate the way in which servitude protects and even promotes the well-being of the servant. But, of course, the

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<sup>73</sup> Warrender, 125–126.

servant's well being can only be secured at the expense of significantly limiting the master's liberty.

Hobbes's consideration of despotic authority provides a plausible analogy for the way a child might come to consent to parental authority. Like the vanquished soldier on the battleground, the child finds itself vulnerable and dependent on its parent's will. Like the conquering warrior, Hobbes's parent sees her child as she sees everyone—a possible advantage as well as a possible threat to its self-preservation. It would be irrational for the parent to nourish a potential enemy, and so she offers the child a deal: if the child promises to obey her, she will grant the child a number of entitlements, including a right to life and freedom from imprisonment. As I have suggested, these entitlements also plausibly include a right to health that imposes on the parent a number of substantive obligations that serve to limit her authority over her child. Thus, Hobbes may have succeeded in sketching the conditions under which a child may consent to its parent's authority, but in doing so makes it highly implausible to think that consensual parental authority could be absolute.

The last criticism of Hobbes's argument from consent concerns the very idea that parental authority is grounded in the consent of the child. How are we to make sense of the claim that very young children—neonates even—are able to consent to the absolute authority of their parents? Without wading into a protracted discussion of the conditions of valid consent, it is clear that the binding force of consent has to do with the ability of the consenter to understand his or her bargaining position, weigh and evaluate the possible options he or she faces from a prudential perspective, and then give consent with the intention of keeping one's word in the future. We don't have to be expert

development psychologists to have reason to doubt that a very young or newborn child lacks the faculties of speech, practical reason, and even a concept of the future itself that are necessary for actual consent to the absolute authority of its parent. And even if a young child could somehow manage to say the words or perform the action that would indicate consent —saying “I do,” or bowing one’s head at the appropriate time, etc.— there would still be reason to think this “consent” suspect, because serious questions persist as to whether the child could fully understand and accept the moral ramifications of its utterance or action. Given the pronounced cognitive deficiencies of very young children, any easy analogy between the child and the adult servant should be resisted. It would seem that we are left with an account of filial obedience that cannot explain how children incapable of giving consent could be obligated to comply with the absolute authority of their parents.<sup>74</sup>

Still one might object that the emphasis on consent in Hobbes’s theory is not entirely fatal. One might suppose that even if very young children lack the cognitive and moral faculties necessary for the granting of consent, Hobbes’s theory might still be interesting as an account of parental authority over those children who have developed the requisite cognitive faculties necessary for the giving of consent. However, I think that Hobbes’s inability to explain parental authority over very young children—in effect, his exclusive reliance on strict voluntarism—is a serious embarrassment. Very young children and neonates are not an ancillary concern in Hobbes’s work on parental authority. They are the central focus insofar as his arguments explicitly focus on justifying the authority of the mother over her newborn child, on the assumption that

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<sup>74</sup> This objection was not lost on earlier theorists. In commenting on Hobbes, Sir Robert Filmer wonders: “How a child can express consent . . . before it comes to the age of discretion I understand not” (Filmer, 192).

parental authority remains in force in perpetuity. If he can show the origins of parental authority exercised over newborn children, he will have succeeded in vindicating the allegedly absolute authority of parents over their children. If he cannot, then all he may have shown is how one adult comes to have authority over another, while having said nothing relevant to the particular and important case of children who cannot be said to always share the moral, physical, and cognitive characteristics of adults.

Peter King believes that Hobbes—perhaps aware of the challenge Hobbes’s strict voluntarism poses for beings who are incapable of actual consent—toys with an account of parental authority that does not depend on actual consent, but only hypothetical consent. King reinterprets the following passage from *Leviathan* as evidence for Hobbes’s turn to hypothetical consent theory:

For it ought to obey him by whom it is preserved; because preservation of life being the end, for which one man becomes subject to another, *every man is supposed to promise obedience, to him, in whose power it is to save, or destroy him.* [emphasis mine]<sup>75</sup>

He cites the next passage as additional evidence:

And though the child thus preserved, do in time acquire strength, whereby he might pretend equality with him or her that hath preserved him, yet shall that pretence be thought unreasonable, both because his strength was the gift of him, against whom he pretendeth, and also *because it is to be presumed, that he which giveth sustenance to another, whereby to strengthen him, hath received a promise of obedience in consideration thereof* [my emphasis]. For else it would be wisdom in men, rather to let their children perish, while they are infants, than to live in their danger or subjection, when they are grown.<sup>76</sup>

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<sup>75</sup> Curley, 130.

<sup>76</sup> Molesworth, 155–156.

On King's reading, Hobbes's claims about what children are "supposed" to consent to, and that we should "presume" that parents have received the consent of their children as a precondition to their nourishing them to adulthood, constitutes strong evidence of Hobbes's transformation into an early advocate of hypothetical consent theory.

King then goes on to worry that no hypothetical consent account applied to children could avoid the "serious difficulties with personal identity" that are bound to ensue when we assert that an infant would consent to the authority of its parent were it to possess adequate information, no false beliefs, etc.<sup>77</sup> No matter how we might try to specify the hypothesis under which an infant were to consent to parental authority, such hypothetical consenters have little to no relation to the actual child in question who remains incapable of consent in the first place. Given this broad disparity between the actual child and the hypothetical child, it is hard to see the binding force of hypothetical consent on actual children.<sup>78</sup>

I doubt that Hobbes ever really embraced a hypothetical consent theory. As I read the first passage above, it seems a mistake to interpret Hobbes's claim that men are "supposed" to promise obedience to those in a position to save or destroy them as an instance of hypothetical reasoning. On my view, Hobbes is making a claim about why people in the state of nature do actually promise obedience, and not that those who fail to promise obedience are nevertheless obligated to obey because they would if they were constituted in the right way.

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<sup>77</sup> King, 75.

<sup>78</sup> In fact, King seems to express skepticism about hypothetical consent theories in general when he writes that "hypothetical consent is no more a kind of consent than an imaginary basketball is a kind of basketball" (King, 74). His remark echoes Ronald Dworkin's well-known complaint that a hypothetical contract is no contract at all.

The second passage—the one in which children are “presumed” to promise obedience—is also not plausible evidence of Hobbes’s turn to hypothetical consent. When Hobbes writes that we “presume” that the parent has actually elicited the consent of her child, he is simply saying that we have good reason to assume that the child has actually given consent, and is not appealing to what the child would or should have consented to. And what is the good reason to assume consent, according to Hobbes? He believes that given the rationality of parents, it is reasonable to assume that no parent would raise up their child from a weak and easily dominated state into a strong and assertive adult who may now seek to exercise his natural right to self-preservation by dominating his parent in turn. So if the parent does nourish her child, then we have reason to assume that the parent has first secured the consent of the child to respect her authority in the coming years. If this were not the case, then the act of nourishment would be nothing more than an irrational and possibly self-defeating act on the part of the parent.

Even if there is less than convincing textual evidence of Hobbes as an early advocate of hypothetical consent theory, it still remains to be seen whether such theories offer a promising way to justify parental authority. This is an important question, but one that I plan to take up in the final chapter. Suffice it to say here that I think most forms of hypothetical consent theory struggle to show the relationship between hypothetical consent and actual obligation, and that the case of children only serves to accentuate this problem. In the end, I think the fact that hypothetical consent theories purport to show that people are sometimes obligated to obey commands to which they have not actually consented should encourage us to more carefully explore the promise and applicability of non-voluntarist accounts of authority.

### ***Chapter 3: John Locke on the Relationship Between Parental and Political Authority***

In the previous chapter, I argued that the most formidable account of absolute parental authority fails to vindicate the exercise of unlimited parental authority, and in some cases even fails to establish any claim to parental authority whatsoever. In this chapter, I turn to consider the more intuitively promising view that parental authority may be legitimate, but only when it is limited in its scope and duration. The most important proponent of the view that I call “child protectionism” is the seventeenth-century English philosopher John Locke. I focus on Locke because I believe he offers a philosophically sophisticated account of limited parental authority, and because there is little doubt regarding the continued relevance of his work in ethics and political philosophy.

John Locke is renowned as an early and important advocate of limited political authority. However, most contemporary political philosophers seldom notice that Locke dedicates considerable attention in his political writings—notably, *Two Treatises on Civil Government*—to the question of parental authority.<sup>79</sup> Among philosophers, Locke’s account of political authority is generally seen as a freestanding defense of limited government that can be grasped quite apart from whatever else he has to say about parental authority. To the extent that contemporary philosophers study Locke’s remarks on parental authority at all, they are usually seen as reflecting nothing more than an idiosyncratic interest in the plight of children.

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<sup>79</sup> The same is not true of historians of political thought who have explored the significance of Locke’s views on parental authority. For prominent examples, see John Dunn’s *The Political Thought of John Locke* (Cambridge: Cambridge University Press, 1990) and Peter Laslett’s introduction to Locke’s *Two Treatises of Civil Government* (Cambridge: Cambridge University Press, 1970).

Locke was in fact very interested in children and their proper upbringing, but this observation provides no reason to conclude that his treatment of children in the *Two Treatises* has scant bearing on his account of political authority.<sup>80</sup> On the contrary, a primary aim of this chapter is to argue against reading Locke's remarks on the authority of the state in isolation from his remarks on authority in the family. We should instead see "authority" as a central concept at work in various domains of human life, and not exclude from the start the possibility that studying its exercise in one domain could have something important to teach us about its exercise in another.

Beginning in this chapter, I hope to show that a comparative study of Locke's accounts of parental and political authority is likely to transform our understanding of both. More specifically, I contend that reading Locke's account of parental authority in the light of his political account reveals a tension regarding the proper scope and duration of parental authority. In reconciling this tension, we discover that the proper scope and duration of parental authority is surprisingly more limited than we may think. In the next chapter, I will describe and defend "parental liberalism" as a revised conception of parental authority.

Likewise, reading Locke's account of political authority in the light of his parental account can help us correct what I see as the excessive emphasis on consent as a necessary condition of political authority in contemporary political thought. In the sixth and final chapter, I argue that a revised conception of parental authority can serve as a

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<sup>80</sup> Starting in 1684, Locke wrote a series of remarkable letters to his friend Edward Clarke in response to Clarke's request for advice on how to rear his son into a proper gentleman. It wasn't until 1693 that Locke reworked the letters and published his extended treatise on the subject of education, *Some Thoughts Concerning Education*.

heuristic, guiding our efforts to defend a natural duty account of political obligation that avoids the notorious problems associated with voluntarism.

Given the tendency of contemporary philosophers to study Locke's account of political authority independent of his account of authority in the family, my overall aim in this chapter is to argue that bringing the two accounts together and reading Locke's accounts of parental and political authority as a more or less unified reflection on the nature of authority stands to enlighten those of us particularly interested in the family, as well as the rest of us generally interested in the authority of the state.

### **Locke and the Rejection of Moral Patriarchalism**

Parental authority is not a canonical topic for contemporary analytic philosophers. Few philosophers today are attentive to the philosophical problems that attend the moral power of parents over their children.<sup>81</sup> In contrast, parental authority was a major topic of interest for the writers who shaped seventeenth-century English political thought, and I think this discrepancy deserves some explanation. As Gordon Schochet has argued, Hobbes and Locke worked within an ideological milieu heavily influenced by normative and descriptive versions of patriarchal political theory. "Anthropological patriarchalism" is a descriptive account which posits that political society probably first evolved from primitive patriarchal family relations.<sup>82</sup> On this view, the first sovereigns were in fact fathers extending their dominion over an increasingly large and complex family unit.

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<sup>81</sup> An important exception is the work of feminist philosophers who have identified family relationships as belonging to the "basic structure" of society, and thus properly subject to the principles of social justice. Nevertheless, there remains widespread indifference to the problems of parental authority and its relevance for politics among contemporary political philosophers.

<sup>82</sup> Schochet, 11.

Interestingly, Locke—like Hobbes before him—concedes the plausibility of anthropological patriarchalism as a historical account of the way that political society actually evolved from primitive patriarchal relations. In the *Second Treatise*, Locke writes, “it is obvious to conceive how easy it was, in the first ages of the world . . . for the *father of the family* to become the prince of it.”<sup>83</sup> In a time when the “thinness of people” allowed families to claim hitherto uninhabited plots of land, Locke argues that grown-up children in need of government would likely have consented to invest political authority in the one person who “had been a ruler from the beginning of the infancy of his children.”<sup>84</sup> Who would be a “fitter umpire,” Locke wonders, than the man “by whose care [all subjects had] been sustained and brought up,” and who thus felt “tenderness” toward all under his authority?<sup>85</sup>

However much Locke is willing to concede the plausibility that fathers were the earliest sovereigns, he resists the implication that historical fact provides a compelling basis for contemporary authority relations. Thus, a principal aim in the *Two Treatises* is to refute the normative strand of patriarchal thought Schochet labels “moral patriarchalism.” Moral patriarchalists claim that the moral reasons we have to obey the sovereign are the very same moral reasons we have to obey our father.<sup>86</sup> On this view, the authority of the sovereign over his subjects is strictly identical to the authority of the father over his children. Alongside this identity claim, moral patriarchalists typically introduce an additional premise: we have an unlimited obligation of obedience to our

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<sup>83</sup> Locke, *Second Treatise of Government*, 41.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid., 42.

<sup>86</sup> For seventeenth-century moral patriarchalists, parental authority was explicitly paternal authority (i.e., the authority of fathers over their children, and not mothers). If one recalls, Hobbes agrees that parental authority is not shared, but concludes that it originally rests in the mother alone. Locke ultimately argues for shared parental authority, equally resting in the mother and the father insofar as both discharge their caregiving duties toward their children.

father. Taken all together, they thus conclude that we have an unlimited obligation of obedience to the sovereign. An argument in favor of absolute parental authority is at once an argument in favor of political absolutism.

Here is the syllogism that encapsulates the moral patriarchalist view:

- (1) Political authority is identical to paternal authority.
- (2) Paternal authority is unlimited in duration and scope.

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Therefore, political authority is unlimited in duration and scope.

The important thing to notice is that (1) is a claim about the logical relationship between political and parental authority—that is, they are identical. In being identical, the moral patriarchalist asserts that parental authority is one and the same thing as political authority, and thus whatever moral obligation we have to comply with parental authority is also the same moral obligation we have to comply with political authority. In contrast, (2) makes a substantial claim about the nature of parental authority—that is, it is unlimited in its scope and duration. Thus, because parental authority is unlimited in scope and duration, and yet identical to political authority, political authority must then also be unlimited in scope and duration. In one concise argument, the moral patriarchalist produces an argument for the controversial idea of political absolutism on the basis of the relatively less contentious premise—at least for its seventeenth-century audience—that fathers have unlimited authority over their children.

The moral patriarchalist's claim that parental authority and political authority are identical is obscure enough to contemporary sensibilities to merit some additional explanation. It may seem obvious to us today that parental authority is simply one form of authority, and political authority another. To see how anyone could have ever believed

that they are simply different names for the same moral power, we should turn to the most influential and articulate advocate of moral patriarchalism in seventeenth-century England, Sir Robert Filmer.

Filmer offers a genetic historical story with explicit theological underpinnings to explain the identity of parental and political authority. In his 1680 masterpiece, *Patriarcha*, Filmer argues that all exercises of authority are ultimately grounded in God's original exercise of unlimited authority over his creatures. According to Filmer, in the beginning there was no moral power in the world other than the absolute authority God possessed over his creatures. Relying on a literal interpretation of Genesis, Filmer argues that God delegated his absolute authority over creation to Adam. In receiving the mantle of divine dominion, Adam's absolute authority over all of creation, including his own children, constitutes the first instance of paternal authority in human history.<sup>87</sup> Eventually, Adam's authority as father is bequeathed to subsequent generations of his male descendents, coming to rest in the contemporary person of the English king.<sup>88</sup> In this way, Filmer claims that what we would today call "political authority" is nothing other than a historically derived instance of paternal authority, preserved and transmitted throughout the ages via the process of primogeniture.

From our vantage point today, Filmer's moral patriarchalism strikes us as philosophical nonsense. For good reason, we are not generally well disposed toward any theory of authority that depends on a literal reading of biblical passages. Nevertheless,

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<sup>87</sup> Filmer offers little in the way of an argument to explain what it is that grounds the authority of Adam over his children, except to express sympathy with Grotius's unconvincing view that mere begetting endows a father with authority over his child.

<sup>88</sup> Filmer offers little justification for the claim that Adam's authority is bequeathed only to his *male* descendents, other than the less than obvious reason that men are the "nobler" sex. We find the same reasoning in Grotius.

however much we may dismiss Filmer's argument, it is important to appreciate the significance of moral patriarchalism as a stark alternative to modern liberal conceptions of political obligation. Writers like Filmer sought to portray the plight of the citizen as akin to the plight of the child. In the same way that children were thought to be born into families, naturally subordinate to the unbounded authority of their father, moral patriarchalists believed that citizens were born into the commonwealth, naturally subject to the unbounded authority of the sovereign. Whether we construe the relationship between father and sovereign as literally identical or merely metaphorical, the upshot is the same: in both cases, obligations of obedience befall us as the consequence of a natural hierarchy over which we have no control.

Despite the fact that we no longer seriously entertain moral patriarchalism, there is no doubt that it played an important role in influencing English political thought in the seventeenth century. Given its prominence, it is clear why writers in Stuart England—no matter their political agenda—felt obliged to engage the question of parental authority. Proponents of political absolutism sought to defend the absolute nature of paternal authority because they believed that their preferred account of political authority ultimately depended on its plausibility. Indeed, because the moral patriarchalists framed the authority of Adam over his children as the original and fundamental instance of human authority, they eventually reduced all questions of political authority to questions about the nature and origins of paternal authority.

In contrast, advocates of limited government, like Locke, engaged the question of paternal authority, if only to undermine a prominent way to argue for absolute monarchy. In both cases, parental authority proved a vitally important question on which hung far

more than the proper configuration of family relations. In taking on the question of parental authority, seventeenth-century political thinkers were fighting a proxy war, with the very nature of political society at stake.

When turning to the question of paternal authority—especially as it factored into arguments for political absolutism—Locke attacks on two fronts with two distinct audiences in mind. First, to those willing to reconsider the nature of paternal authority, Locke presents a substantial critique of the idea that paternal authority is unlimited in scope and duration. Dedicating significant attention throughout his *Second Treatise* to the question, Locke argues that paternal authority is neither paternal nor unlimited in duration and scope. For Locke, paternal authority is in fact *parental* authority, equally shared by both mothers and fathers so long as they faithfully discharge their duties to provide their children with the basic nourishment and protection that they cannot yet provide for themselves.<sup>89</sup> Once their children are able to provide themselves with these basic goods, the authority of the parent comes to an end. Inasmuch as parental authority is only a temporary moral power, it is also limited in scope such that parents may not treat their children in whatever way they wish. Parental authority—for Locke, more a responsibility than a prerogative—depends on treating children in ways that befit their special moral status as beings “destined for equality, though not our equals at present.”<sup>90</sup>

But Locke is not content to rest with merely refuting the unlimited duration and scope of paternal authority. His second line of attack focuses on the alleged identity between paternal and political authority, and I suspect is intended for those readers

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<sup>89</sup> Locke, *Second Treatise of Government*, §52, 30. In §53, Locke suggests that moral patriarchalists have no principled defense of paternal authority except that it happens to support the particular form of monarchy they champion—namely, the rule of a male sovereign over his subjects.

<sup>90</sup> Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002), 73.

reluctant to reject the idea of paternal dominion. As Locke writes, refuting the alleged identity of paternal and political authority is critical because the “great mistakes of late about government” have “arisen from confounding these distinct powers one with another.”<sup>91</sup> If he can show that paternal and political authority are not the same thing, then Locke can argue that even those who deny his substantial account of limited parental authority still have no good reason to endorse patriarchal arguments for unlimited political authority.

Not surprisingly, a persistent though often unappreciated theme throughout the *Second Treatise* is the alleged distinction between parental and political authority. As early as §2 in the *Second Treatise*, Locke claims that “the power of a *magistrate* over a subject may be distinguished from that of a *father* over his children.”<sup>92</sup> But it is only later in §71 that he specifies the grounds on which the two forms of authority may be distinguished: parental and political authority are not identical because they are “built upon . . . different foundations, and given to . . . different ends.”<sup>93</sup>

According to Locke, the distinctive end of political authority is the making of laws and the establishment of penalties for their violation—including the death penalty—for the sake of preserving the “life, liberties, and possessions” of the members of the community.<sup>94</sup> Political authority includes the right to employ the force of the entire community in executing the law, defending the commonwealth from “foreign injury,” and all for the sake of the “public good.”<sup>95</sup>

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<sup>91</sup> Locke, *Second Treatise of Government*, §169, 88.

<sup>92</sup> *Ibid.*, §2, 7.

<sup>93</sup> *Ibid.*, §71, 39.

<sup>94</sup> *Ibid.*, §3, 8 and §171, 89.

<sup>95</sup> *Ibid.*, §3, 8.

In contrast, parental authority includes only the right of a parent to govern his or her child for the child's own good, and not the public good. And unlike political authority that has in principle no definite duration, parents retain authority over their children only so long as the child remains incapable of governing him- or herself. Furthermore, the authority of the parent does not extend to the property of the child, which the child retains and may eventually dispose of as he or she sees fit once able to govern him- or herself according to the natural law or the laws of the commonwealth to which he or she belongs.<sup>96</sup> In regards to the ends to which parental authority is exercised, they are clearly not identical to those of political authority.

But Locke's distinction between the proper ends of parental and political authority need not silence the moral patriarchalist who may insist that what Locke calls "parental" and "political" authority are simply aspects of the same original authority that God delegated to Adam. In short, the moral patriarchalist may simply refuse to concede that Locke's terms actually correspond to two irreducibly different kinds of moral power. To definitively refute moral patriarchalism, it would seem that Locke needs to show that parental and political authority have qualitatively distinct moral foundations. If he can show this, then he can refute once and for all the moral patriarchalist claim that all instances of human authority derive their moral power from the same origins.

Rising to the challenge, Locke argues that parental authority is a "natural *government*" in that it rests on the moral force of the law of nature, while political authority rests on the moral force of the consent of the governed.<sup>97</sup> On Locke's view, parental and political authority do not share common moral foundations, and thus are not

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<sup>96</sup> Ibid., §170, 88-89.

<sup>97</sup> Ibid.

identical forms of human authority. Moral patriarchalism is hereby defeated. But Locke does not leave well enough alone. He goes one step further in §71, where he argues that parental and political authority are not only *not identical* but are in fact “perfectly distinct and separate.”<sup>98</sup>

The implications of this last move are easy to miss. Locke is attempting to respond to the moral patriarchalist assertion that paternal and political authority are identical, and thus share the same moral foundation. But in response, Locke does not simply deny that they are identical; he argues that parental and political authority are “perfectly distinct and separate.” In other words, parental and political authority share no common moral foundations whatsoever. On the Lockean view, the moral force of parental authority is entirely explained by the law of nature, and the moral force of political authority is entirely explained by the consent of the governed. The resulting picture is of two forms of authority philosophically sealed off from each other, sharing nothing in common except the bare concept of authority itself. Both parents and sovereigns, according to Locke, have the moral power to require action, but for entirely different reasons.

I believe that Locke’s historical success in arguing that there is no meaningful relationship between parental and political authority has contributed to the contemporary philosophical indifference toward parental authority. Given the assumption that parental and political authority are entirely different types of authority, there is little reason to think that in order to grasp the nature of political authority we would benefit from exploring the nature of parental authority. All I want to suggest here is that Locke’s

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<sup>98</sup> Ibid., §71, 39.

picture of parental and political authority as “perfectly distinct and separate” forms of authority need not follow from the essential claim required to defeat moral patriarchalism (i.e., parental and political authority are not identical). There is a logical alternative to the extreme views of both Locke and the moral patriarchalist. On this alternate view, parental and political authority may not share all the same features—in other words, they are not identical—and yet they do not necessarily rest on entirely different moral foundations.

One may recognize that there is a logical alternative to Locke’s account of the relationship between parental and political authority, and yet still wonder what sorts of considerations could bring us to favor this alternative over Locke’s. What exactly do we stand to gain in pondering the relationship between parental and political authority? The idea that political authority rests entirely on the consent of the governed is both commonplace and deeply problematic. Philosophical anarchists—many of whom profess allegiance to the moral force of consent—have argued that if political authority rests on consent, then there is no legitimate political authority. The history of modern liberalism is replete with attempts to grapple with the conditions or nature of consent. Locke famously and controversially advocated the moral force of tacit consent. In more recent times, hypothetical consent theories are in vogue. But I am skeptical that any account of consent is robust enough to vindicate the range of political obligations that I intuitively believe we have. The solution may require us not to work harder on the problem of consent, but to explore the benefits of nonconsensual accounts of political authority.

In advocating limited government, Locke relied exclusively upon the moral power of consent. His penchant for a purely consensual account of political obligation is understandable given the fact that he worked within the crucible of seventeenth-century

England, in the midst of an extreme ideological context that was more congenial to hard-and-fast distinctions than conceptual subtleties. We should recall that Locke's *Second Treatise* aimed not only to justify limited political authority but also to finally secure it for his generation and those to follow. In other words, Locke's treatises were instances of political activism as much as they were philosophical reflections on the nature of political authority. Now that questions regarding the nature of political authority have largely been settled in favor of limited government, we have the luxury to once again consider these questions under less pressing and urgent circumstances. We have inherited Locke's exclusive reliance on consent as a necessary condition of political authority, but it remains up to us to be critical of that inheritance, investigating the extent to which Locke's views reflect the distorting influence of the ideological battles of his time rather than the plain philosophical truth. With these thoughts in mind, we can now turn to consider in more detail Locke's substantive arguments for limited political and parental authority.

### ***Locke's Argument for Limited Political Authority***

The primary target of Locke's argument for limited political authority is not, as is commonly assumed, Thomas Hobbes.<sup>99</sup> Although an enthusiastic absolutist when it comes to all kinds of authority, Hobbes does not represent the most radical and dangerous threat to Locke's political philosophy. At the very minimum, both Hobbes and Locke share a fundamental commitment to what I will call "natural liberty." As proponents of natural liberty, Locke and Hobbes believe that human beings are born free from political authority to which they have not consented. Political authority, on both their views, rests

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<sup>99</sup> Laslett, 70.

entirely on consent, and thus is not the consequence of any supposedly natural hierarchy in human relations.

The more radical and pressing alternative to Lockean politics is embodied in the work of Sir Robert Filmer, who denies the existence of natural liberty. On Filmer's view, unlimited parental authority is sanctioned by natural law, and in no way depends on the parent's quality of care or the child's consent. And since political authority in nothing other than inherited parental authority, the absolute authority of the state is thus entirely natural as well. Accordingly, Filmer insists—contrary to Hobbes and Locke—that in the same way and for the same reasons that we are born subject to the absolute authority of our parents, we are also born subject to a sovereign whose absolute authority in no way depends on fidelity to an independent standard of legitimacy or the will of the governed.

Despite the fact that most contemporary philosophers treat Filmer's work as little more than a quaint historical artifact, I think he often proves insightful in his criticism of those writers more safely enshrined in the pantheon of modern political thought. For instance, Filmer offers a powerful objection to Hobbes's attempt to reconcile natural liberty with absolute parental authority. Even if very young children were somehow able to consent to absolute parental authority, Filmer then argues "there would have been little liberty left in the subjects of the family to consent to institution of government."<sup>100</sup> If nothing else, Filmer's objection demonstrates how consequential the question of parental authority can be for political theorists who endorse some version of political voluntarism. If we endorse the existence of natural liberty, coherence demands that we dismiss

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<sup>100</sup> Filmer, 185, 187.

absolute parental authority from the outset as inconsistent with the measure of freedom necessary if the social contract is to count as a voluntary agreement.

Similarly, objections against Filmer's thesis by contemporary thinkers held in higher esteem today often miss their mark. Take, for instance, Locke's attempt to generate a kind of *reductio* argument against Filmer, in which he claims that the identification of parental and political authority entails an absurd conclusion. Locke claims that parental authority is or is not identical with political authority. If it isn't, then "Adam could not be Sovereign by this Title, nor any body else, and then there is an end of all our A's [author's; that is, Filmer's] Politics at once."<sup>101</sup> If it is, then "every one that has *Paternal Power* has *Royal Authority*, and then by our A's Patriarchal Government, there will be as many Kings as there are Fathers."<sup>102</sup> In this latter case, Locke suggests that the identity claim at the heart of moral patriarchalism entails that all fathers are also absolute sovereigns—a result that would be especially embarrassing to a monarchist like Filmer.

However, Filmer would have had a ready reply to Locke (although I have not yet discovered any evidence that he actually offered one). It is not simply the fact that begetting a child does not necessarily endow one with absolute parental authority. What gave Adam absolute authority over his children is that God invested him with such authority in his role as both the first father and the first sovereign. Adam's original authority was then continually bequeathed over many years to Adam's firstborn male heirs. Thus, although many men may beget children, there is in any generation only one individual who inherits Adam's absolute paternal-sovereign authority. In this way, Filmer

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<sup>101</sup> Laslett, 193.

<sup>102</sup> Ibid.

could show how it is possible for moral patriarchalism to stave off the absurd conclusion that the mere act of begetting endows one with unlimited political authority.

In making this objection, Locke does, however, succeed in reminding us of something we first learned from studying Hobbes: absolute parental and political authority cannot coexist. Either parents or sovereigns must ultimately yield to the other, and it is usually the fathers of the realm who must submit to their king. In addition, my imagined response to Locke's objection reveals an interesting feature of moral patriarchalism. Unlike Hobbes, Filmer is not out to establish the natural, unlimited authority of all fathers over their children. His aim is far more particularistic in that he hopes only to establish the absolute authority of a particular father: Adam, and the series of male descendents who have inherited his original moral powers. If moral patriarchalism is true, then only one father-sovereign wields absolute authority over his children-subjects. Thus, moral patriarchalism is not ultimately a defense of the absolute authority of all fathers, but only the particular authority of the single individual that has inherited Adam's parental-sovereign authority.<sup>103</sup> Of course, my remarks are not meant to imply that Filmer's argument is sound, but I do want to give him credit for articulating an argument that isn't clearly incoherent.

Putting aside the plausibility of Filmer's view, there is certainly no doubt about his historical influence in framing the debates that shaped seventeenth-century English political thought. Indeed, Locke's *First Treatise* is a point-by-point refutation in both content and structure of Filmer's central text, *Patriarcha*. In it, Locke refutes Filmer's theological argument that God invested Adam with unlimited authority over all of

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<sup>103</sup> Jeremy Waldron notices the particularistic nature of Filmer's inegalitarianism, and contrasts it with the general egalitarianism of Locke's account of political authority. See Waldron, 17–18.

creation, and that this authority has been bequeathed through patrilinear descent to the present-day king. In opposition, Locke offers a series of competing biblical interpretations meant to discredit Filmer's claim that the word of God clearly supports the institution of absolute monarchy and the absolute authority of the father over his wife and children.<sup>104</sup>

Locke's *Second Treatise* is his positive, substantive account of political authority in which he attempts to establish the legitimacy of limited government on the ruins of Filmer's patriarchal absolutism. In the *Second Treatise*, Locke invokes the familiar ideas of the state of nature and the social contract, but to a very different end than Hobbes. Locke's state of nature is not the perfectly amoral place that Hobbes imagines, and his social contract is not merely a prudential agreement entered into by instrumentally rational agents with the sole aim of securing their own self-preservation.

Instead, Locke claims the state of nature is governed by a law of nature that imposes moral constraints on how we may treat ourselves, and others like us. On Locke's view, the law of nature entails that we are morally bound to preserve our own lives and liberty, and to secure those means necessary for our continued self-preservation—namely, property. Locke argues that insofar as we are obligated to secure our own lives and liberty, we are also obligated “*to preserve the rest of mankind.*” Accordingly, one is morally obligated not to impair or deprive any other person acting in accordance with the natural law of his life, liberty, or property.<sup>105</sup> Moreover, Locke claims that “when [one's]

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<sup>104</sup> One of Locke's most effective objections is to remind Filmer that the fifth commandment commands us to honor our father *and* our mother. Thus, Filmer's appeal to the fifth commandment in support of his claim that fathers alone wield parental authority is based on an unjustified refusal to give each word of that commandment equal weight. See Laslett, 188–189.

<sup>105</sup> Locke, *Second Treatise of Government*, §6, 9.

own preservation comes not in competition,” one has a positive duty “to preserve the rest of mankind” as “much as [one] can.”<sup>106</sup>

The moral insight at the core of Locke’s account of political authority is that all human beings have a special moral status that other kinds of animals do not. This special status endows us all with natural rights to life, liberty, and property that may not be violated so long as we comply with the intrapersonal and interpersonal dictates of the law of nature. When we fail to comply with the law of nature in how we treat ourselves (e.g., committing suicide or engaging in severe forms of reckless or self-destructive behavior) or how we treat others (e.g., murdering them, confining them against their will, or stealing from them, etc.), we no longer enjoy the full protection of our natural rights, and may be treated in ways that would otherwise be morally impermissible. Thus, morality permits and even obligates us to punish those who violate the law of nature with execution, imprisonment, or restitution for the harm and damages they have caused.<sup>107</sup>

One puzzle to consider is how the mere existence and even knowledge of a natural moral law is enough to establish a significant measure of natural social cooperation. Indeed, Hobbes argues for the need for coercive institutions to ensure an adequate level of compliance with the social contract, otherwise social cooperation would not be rational (at least given Hobbes’s purely instrumental conception of reason). It must be that Locke is thinking in very different terms about the relationship between morality and reason. For Locke, it seems that reason alone can bring people to understand and

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<sup>106</sup> Ibid. It is one thing to claim that we have natural moral duties, and another to claim that we naturally comply with those duties. Locke does assume we generally comply with those duties—criminals are the exception and not the rule—but I think his assumption is not totally unmotivated given his other claims that we are rational creatures and that the law of nature is nothing other than the law of reason.

<sup>107</sup> Locke advocates a proportional retributivism in which punishment is justified as a response to actual guilt, and its severity must be proportional to the severity of the crime. See Waldron, 143–144.

comply with the law of nature. In fact, Locke goes so far as to claim that the law of nature is nothing other than reason itself. I don't want to get too bogged down in the perennial (and always interesting) problem regarding the source of normativity in morality. I simply want to point out that, unlike Hobbes, Locke assumes that knowledge of the law of nature carries with it a general tendency to comply with its dictates, and that this assumption explains why his account does not emphasize the institution of third-party coercive enforcement as a precondition to any measure of social cooperation.

In any case, it is clear that the Lockean state of nature is a very different place than the one Hobbes imagines. Indeed, Locke argues that Hobbes confuses the state of nature with the state of war, in which life truly is "solitary, poor, nasty, brutish, and short," but that the real state of nature and state of war are as different as "a state of peace, good will, mutual assistance, and preservation, and a state of enmity, malice, violence, and mutual destruction, are one from another."<sup>108</sup> Locke's picture of the state of nature, with its promise of "peace, good will, mutual assistance, and preservation," raises a question that Hobbes never has to answer: What reason does anyone have to leave the state of nature for the relatively onerous confines of political society?<sup>109</sup>

Locke maintains that despite the natural sociability of humanity, the creation of political society is "hardly to be avoided amongst Men that live together."<sup>110</sup> For while life in the state of nature may offer substantial benefits, it is also attended by a considerable "inconvenience" that is a direct consequence of the lack of a defined and

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<sup>108</sup> Locke, *Second Treatise of Government*, §19, 15.

<sup>109</sup> Indeed, I believe that the relatively decent life that Locke imagines in his state of nature not only serves as a standard against which particular political regimes are to be measured, but also fuels the plausibility of philosophical anarchism. The philosophical anarchist has reason to claim that not only may some political regimes be better than others, but also the state of nature may in fact be preferable to the institution of *any* political regime given the additional burdens associated with the institution of political authority.

<sup>110</sup> *Ibid.*, §105, 56.

centralized authority to adjudicate the property and personal disputes that must inevitably arise. While Locke does not assume that all people will always comply with the law of nature—Locke concedes the natural existence of criminals, even if they remain a minority—he does believe that the natural law endows all persons in the state of nature with the executive authority to punish all who violate it to a degree necessary to deter future violations.<sup>111</sup> But the dispersal of this executive authority into each and every person’s hands in the state of nature means that people may act as “judges in their own cases.”<sup>112</sup> Adjudicating disputes to which they are a party is likely to lead persons to decide issues of guilt and matters of punishment in a less than impartial way. The result is likely to be a tendency toward excessive punishment that will unleash a cycle of revenge that will bring about nothing but “confusion and disorder.”<sup>113</sup>

The solution to the problem of dispersed executive authority is the consensual creation of a central authority that may issue clear and defined laws, adjudicate disputes, and decide on punishment in an impartial way that will preserve social order. Thus, the legislative and judicial dimensions of political society emerge once people agree to conditionally renounce their individual executive authority, investing it in a sovereign entity equipped to legislate and adjudicate justice in a way that best promotes the preservation of life, liberty, and property. The sovereign remains authoritative so long as it in fact succeeds in promoting the preservation of life, liberty, and property. In the case that it does not, the people are justified in no longer obeying its commands, and are

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<sup>111</sup> Ibid., §7, 9.

<sup>112</sup> Ibid., §13, 12.

<sup>113</sup> Ibid. A similar argument can be made regarding the natural “inconvenience” of a decentralized system of defense against foreign and domestic aggressors, and the creation of a centralized police force as a legitimate and essential aim in the creation of political society. See Locke, *Second Treatise of Government*, §3, 8.

entitled to overthrow the sovereign in an attempt to replace it with another regime that more effectively promotes the ends for which political society was originally created.

Locke's conception of the state of nature avoids a number of problems that we find in Hobbes. First, assuming that persons generally comply with the law of nature, Locke's account establishes that some degree of social cooperation is a natural consequence of human interaction. Indeed, Sir Ernest Barker has suggested that Locke's greatest innovation is the invention of "society" as a realm of natural cooperation distinct from an allegedly inescapable state of war and prior to the state.<sup>114</sup> Locke's conception of the state of nature as a relatively respectful and cooperative place does not give rise to a Hobbesian assurance problem regarding how we can rationally progress directly from a state of war to political society without exposing ourselves to the prospects of total loss. Locke's state of nature provides for the degree of social cooperation necessary to bridge the gap between the state of war and the establishment of political authority. It is clear that the creation of political authority in Locke's account is motivated by a desire to improve upon an already decent society, and not to provide some meager alternative to the horrors of total war we encounter in Hobbes's state of nature.

Second, no regress problem hovers over Locke's account of political authority. Because Locke aims to establish limited political authority, there is no problem in conceiving of any particular government as a signatory to the social contract. Upon closer inspection, the Lockean social contract is best conceived as a two-stage agreement. The first agreement is struck among individuals in the state of nature, and transforms a group

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<sup>114</sup> Sir Ernest Barker, "The Theory of the Social Contract in Locke, Rousseau, and Hume," in *Essays on Government*, 2nd ed. (London: Oxford University Press, 1951), 90–91. Locke's concept of "society" prefigures the nineteenth-century *Staat/Gesellschaft* distinction in German political thought, and ultimately our contemporary notion of "civil society" as a realm of voluntary association distinct from nature and the state. I thank Charles Larmore for drawing my attention to this resonance.

of discrete individuals into a sovereign “people” with a unified political will. The second agreement is between the sovereign people and a particular government charged with administering the natural law. In contrast to Hobbes, the people retain sovereignty in Locke’s account and only alienate their powers to a government on the condition that it succeeds in protecting their natural rights to life, liberty, and property.

In this way, Locke’s social contract constitutes a two-party agreement reached between a government and the people, and not between discrete individuals that must be enforced by the judicial and executive judgment of a completely independent (and thus unlimited) sovereign. Hobbes was right to notice that the rationality of contracting requires something independent to identify valid laws and enforce the terms of the contract, but he missed the possibility that it need not be an absolute human authority. For Locke, the independent entity against which the Lockean social contract may be measured is a constitutional conception of our natural rights, which ultimately justifies the creation of political authority as well as the occasional dissolution of an ineffective or corrupt political regime.<sup>115</sup> One might worry that without a clear and impartial interpretation of our natural rights, a tendency toward political disorder threatens. Locke, I believe, is sensitive to this problem, but argues that we solve it at our peril if we think the best remedy is subjection to an entirely unconstrained sovereign.

Inasmuch as Locke’s account of political authority evades the problems associated with Hobbes’s approach, it must still contend with its own distinctive set of

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<sup>115</sup> This is the essence of H.L.A. Hart’s criticism of Hobbes: the authority of any legal system need not ultimately rest on a human authority to identify and enforce valid rules of law. A set of constitutional rules must serve as an independent criterion for valid law if we wish to account for the persistence of legal authority over time. For a discussion of Hart’s critique, see Hampton, 107–108.

problems.<sup>116</sup> One problem is that Locke's account seems to depend on a tendentious notion of "natural liberty." Locke and Hobbes both endorse the basic idea of natural liberty (i.e., that human beings are born free from authority to which they have not consented) but they offer very different ideas of what it means for a person to be naturally free.<sup>117</sup> Hobbes conceives of naturally free persons as constrained by no rules or moral imperatives save for the prudential one to secure their own self-preservation.

In contrast, Locke argues that there is nothing incoherent in claiming that naturally free persons are nevertheless constrained by the law of nature in their dealings with themselves and others. On Locke's account, natural liberty is not a "perfect liberty" to dispose of one's person and property in any way that he or she wishes. Hobbes, Locke persuasively argues, has not captured the essence of natural liberty but only license.<sup>118</sup> For Locke, the true concept of law is not so much characterized as constraint as "*the direction of a free and intelligent agent to his proper interest,*" and the general good.<sup>119</sup> Far from being hostile to liberty, law is its necessary precondition. To have liberty one must first be "free from restraint and violence from others," but such liberty is impossible where there is no natural law to justify the curtailment of the destructive inclinations of others. The liberty enjoyed by those in the Lockean state of nature is thus the freedom to dispose of one's person and property within the limits established by the law of nature.<sup>120</sup>

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<sup>116</sup> The most prominent is Locke's idea of tacit consent, which I will consider in the final chapter of this essay.

<sup>117</sup> On the other hand, they do not disagree about what it means to be free after the establishment of political authority, but that is only because "political liberty" is not a central concept idea for Hobbes in his defense of absolute political regimes. In contrast, Locke maintains that we are politically free only when we are subject to the rule of law, and not the arbitrary will of a sovereign unconstrained in the exercise of its authority.

<sup>118</sup> Locke, *Second Treatise of Government*, §6, 9.

<sup>119</sup> Ibid., §57, 32.

<sup>120</sup> Ibid.

Locke's moralized conception of the state of nature has clear implications for the justification and limits of political authority. But what exactly is Locke's argument for the claim that all members of the human species enjoy a "basic moral equality" that distinguishes the state of nature from a state of war?<sup>121</sup> The most powerful statement of the argument occurs in §6 in the *Second Treatise*. It is worth quoting at length:

. . . men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure: and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such *subordination* among us, that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for our's [*sic*].<sup>122</sup>

In this passage, Locke introduces explicitly theistic premises in order to explain the special moral status that human beings enjoy. Locke claims that human beings are creatures of an omnipotent and infinitely wise God. Unlike "the inferior ranks of creatures," human beings stand in a special relation to God, since they are his servants sent into the world to go "about his business." Because human beings are the servants of God alone, we may not treat other human beings as if they were made for our use and pleasure. To do so would violate their status as God's property. Only God may do with us as he wishes.<sup>123</sup>

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<sup>121</sup> The term "basic moral equality" is Waldron's. I use it here as a shorthand for the idea that human beings have a moral status that protects them from being subject to authority to which they have not consented.

<sup>122</sup> Locke, *Second Treatise of Government*, §6, 9.

<sup>123</sup> It is not insignificant to note that Locke's God seems to play the role of a parent with absolute authority. There is something to the idea that Locke is not against parental absolutism per se, but only parental absolutism as exercised by human beings and not God.

There is an idea in the above passage that eludes easy explanation. The idea that human beings are special creatures, marked out to be God's servants on earth, is reasonably clear. What is harder to understand is the relationship between Locke's claims regarding our special status, and his comments in the latter portion of the passage that we have been "furnished with like faculties." How does the idea that we have "like faculties" follow from the idea that we have a special moral status as God's special creatures? And perhaps more important, what is the moral significance of Locke's claim that being furnished with like faculties somehow entails that there cannot be any natural subordination among us?

The significance of Locke's appeal to "like faculties" is all the more pressing because Locke elsewhere seems to argue as if these shared faculties do the work in establishing basic moral equality. In §4 of the *Second Treatise*, Locke claims that there is "nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection."<sup>124</sup> On the basis of this claim, Locke's argument for basic moral equality seems to be that members of the same species that share all the same physical and cognitive faculties are not naturally subordinate to other members of their species. Thus, because human beings are born to all the same faculties, they are endowed with a basic moral equality inconsistent with any natural hierarchy.

If this were the whole of Locke's argument, I think the case for basic moral equality would be in bad shape. First, human beings don't all share the same physical and

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<sup>124</sup> Ibid., §4, 8.

cognitive faculties. There are strong and weak human beings, as well as stupid and intelligent ones. Indeed, Locke recognizes the fact of human diversity in *An Essay Concerning Human Understanding* when he writes that there is “a difference of degrees in Men’s Understandings . . . to so great a latitude, that one may, without doing injury to Mankind, affirm that there is a greater distance between some Men and some Beasts.”<sup>125</sup> If basic moral equality were to solely rest on the fact of shared human faculties, then there would be no natural moral equality among human beings. There is just too much actual diversity among human beings for it to serve as the basis of a widely disseminated moral equality.

Second, it is not obvious that basic moral equality follows from the alleged fact of shared faculties among human beings. Why not think that natural hierarchy is entirely consistent with the sharing of all physical and cognitive faculties? Without specifying the moral significance of certain faculties, the mere fact that members of a species share the same faculties does not seem to rule out the permissibility of a natural hierarchy in which some may be naturally subordinate to the authority of others. One might be tempted to suggest that Hobbes’s political philosophy offers us an example of a world in which the fact that human beings have a rough equality in terms of their physical and cognitive endowments leads to a kind of moral equality. But one should recall that “moral equality” in Hobbes’s state of nature reduces to a perfect liberty to subordinate all others to one’s own desires and purposes—hardly a recognizable instance of basic moral equality as we have defined it. And, of course, there are technically no authority relations in Hobbes’s state of nature, so the suggestion that a Hobbesian state of nature provides an example of

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<sup>125</sup> John Locke, *An Essay Concerning Human Understanding*, ed. P.H. Nidditch (Oxford: Clarendon Press, 1979), 709.

rough descriptive equality leading to a kind of moral equality never really gets off the ground in the first place.

The moral significance of Locke's appeal to "like faculties" comes more into focus once we understand that the claim that there is a basic moral equality among all members of the human species generates a serious interpretative problem given Locke's views in the philosophy of science and biology. As Jeremy Waldron explains in his seminal book, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought*, Locke is skeptical in the *Essay* that the idea of a species actually correlates to any real collection of features and faculties in nature.<sup>126</sup> For Locke, the word "species" does not refer to a natural kind, but is only a conventional concept that is inescapably confused and muddled. And the reason for that confusion is that the members of any putative species exhibit such an unordered diversity of features and faculties that it makes little sense to group all of them together as if they all share real, essential properties. For instance, Locke argues:

There are Creatures in the World, that have shapes likes ours, but are hairy, and want Language, and Reason. There are Naturals amongst us, that have perfectly our shape, but want Reason, and some of them Language too. There are Creatures, as 'tis said . . . that, with Language and Reason and a shape in other Things agreeing with ours, have hairy Tails; others where the Males have no Beards, and others where the Females have.<sup>127</sup>

Given the haphazard way in which humanlike form, reason, and language seems to be distributed throughout nature, Locke claims it is difficult to believe that species-terms like "human beings" actually reflect all the different arrangements that humanlike beings

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<sup>126</sup> Waldron, 49. As Waldron points out, this is no case of a philosopher changing his mind, since the *Essay* was first published in 1690, one year after the *Second Treatise*.

<sup>127</sup> Nidditch, 450..

exhibit in nature. Of course, we may find it convenient to use species-terms in describing the natural world, but Locke cautions us to be wary of assuming that the practical value of our species-terms entails that species are actually to be found in the robust diversity of nature.

We need not share Locke's species-skepticism to appreciate the force of his argument for basic moral equality. Modern genetics and the discovery of DNA as a singular marker for species-terms undermine Locke's uneasiness about the extent to which species-terms actually track natural kind distinctions. But even if we harbor confidence that our species-terms can be made to reliably track natural kind distinctions, we can still appreciate the question at the heart of Locke's argument: How do we account for the moral significance of membership in the human species given the claim that all members of the human species are endowed with a basic moral equality?

Taking Locke on his own terms, it is clear that his steadfast skepticism about species-terms makes it difficult to reconcile his claim in the *Second Treatise* that there is a basic moral equality among all human beings. Waldron claims that Locke sought to solve the apparent contradiction between his skepticism about species and basic moral equality by substituting an appeal to the real essence of a species with real resemblances observed among particular animals.<sup>128</sup> On this view, there may not be real resemblances among all members of an alleged species-group, but there are definitely similarities among some members and between some members of one species-group and the members of another. On this suggestion, Locke's project is now to investigate whether we can explain the idea of basic moral equality on the basis of these real resemblances.

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<sup>128</sup> Waldron, 66.

But not all real resemblances among particular creatures seem to be plausible candidates for the basis on which basic moral equality is to rest. For instance, there are many animals with fur, but it is hard to see how that resemblance could provide a basis for basic moral equality among all furry animals. Instead, we need to specify a feature or faculty that could provide a plausible basis for basic moral equality. In order to do this, we need to turn back to the passage in §6 of the *Second Treatise*, and ask what are the relevant shared features or faculties of creatures sent into the world about God's business.

There is an important methodological shift in Locke's argument for basic moral equality. In the wake of Locke's skepticism about species-distinctions, the new aim is to specify the relevant features and faculties on which basic moral equality may be founded. Whereas before the method was to hold in our minds an idealized class of beings that we call "human beings," and then try to identify an essential property all human beings share that could serve as the basis for basic moral equality, Waldron claims that we now:

. . . have to start from the idea of a similarity among faculties that would be robust enough to sustain the sort of equality thesis Locke wants, and then actually *look and see* what class of creatures that applies to, i.e., what class of creatures comes within the range of the relevant similarity.<sup>129</sup>

If Waldron's interpretation of Locke's methodology is right, then we can now understand the connection between the first and latter parts of the quoted passage from §6. The first part of the passage establishes the existence of certain creatures with a special status among God's creation because they are to be his servants, "sent into the world by his order, and about his business," and "made to last during his, not one another's pleasure."

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<sup>129</sup> Waldron, 67.

The second part of the passage—regarding the possession of “like faculties”—connotes Locke’s solution to the problem of how to distinguish those special creatures from among all of creation, without falling back on conventional species-terms. Accordingly, the problem of which creatures have a special moral status protecting them from harm to their “life, health, liberty, or possessions” is not to be solved by our conventional distinctions among creatures, but rather by first identifying the relevant faculty and then surveying all of creation to find those creatures who happen to possess it.

So what is the most plausible candidate for the faculty that grounds basic moral equality? Locke claims that it is reason, but not just any conception of reason because even “brute animals have some sort of reason.”<sup>130</sup> The distinctive conception of reason Locke has in mind is “the power of *Abstracting*,” or the “capacity to reason on the basis of general ideas.”<sup>131</sup> The faculty of abstract reason emerges as the relevant similarity among God’s special creatures because it alone allows us to grasp the idea and existence of a transcendent God that has created us to act as his servants on earth.

The assumption is that those creatures that lack the faculty of abstract reasoning could not possibly have been created to go about God’s business because they are not capable of understanding the idea of a divine plan, or even the existence of a God with a special relationship to particular kinds of creatures. Insofar as the beings conventionally referred to as “human beings” possess the faculty for abstract reason, we have reason to believe that they have been endowed with the particular faculty that allows them to know God and grasp his divine plan for us. Only beings with this ability could fit the description for the creatures that God specially creates to be in his employ.

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<sup>130</sup> Nidditch, 447..

<sup>131</sup> Ibid., 159.

On Locke's view, the capacity for abstract reason picks out those creatures from all of creation that are God's property alone. The capacity for abstract reasoning establishes our identity as moral agents constrained by moral considerations, as well as identifies the objects of our moral concern (i.e., other beings with the capacity for abstract reasoning). Accordingly, a tiger that attacks and kills one of God's special creatures has done nothing wrong because it lacks the ability to grasp the idea of a moral obligation to respect God's property. On the other hand, a creature with the capacity to grasp this idea may not harm another creature with "like faculties," also capable of grasping this idea. Nevertheless, it remains an open question whether there are or ever could be other sorts of beings—beings that we would not recognize as conventionally "human"—that could exercise the relevant faculty, and thus deserve the special protections and obligations that come with divine employment.

The idea that our special moral status is related to our capacity for reason is not unfamiliar. However, Locke's account is particularly valuable in that he provides a full-blown story as to how abstract reason underwrites basic moral equality. The claim that the faculty of abstract reason is the grounding for the basic moral equality among human beings is consistent with the fact that many human beings do not possess the same talent for abstract reasoning. Some human beings are quite adept at thinking abstractly, and others are not. But Locke maintains that all human beings are endowed with a sufficient capacity for abstract reasoning for moral purposes, and thus even the least talented abstract thinkers are still talented enough to know that God exists and that there is a natural law that governs all our intra- and interpersonal relations. In this way, Locke specifies a threshold condition for basic moral equality, and maintains that a morally

sufficient capacity for abstract reasoning is widely disseminated among the creatures that we conventionally label “human beings.”

In order to vindicate his conviction that the great majority of these creatures, regardless of class, gender, or education, have a faculty for abstract reasoning adequate to the knowledge of God and his plan for us, Locke must set the threshold condition for basic moral equality at a surprisingly low level. To do otherwise threatens to shrink the range of creatures deserving of the protections that come with basic moral equality. Consequently, Waldron consistently refers to morally sufficient abstract reasoning as a less than impressive achievement. It is a “modest intellectual capacity,” “a very lowly intellectual capacity,” and a “quite modest estimation of [our] intellectual capacities.”<sup>132</sup> The idea that basic moral equality only requires a “modicum of reason” will have significant consequences when we return to consider the moral status of children in the next chapter.<sup>133</sup>

It is now time to address an objection that I suspect would occur to contemporary readers who may no longer see the Christian God as an appropriate axiom for moral and political philosophy. Locke’s argument for basic moral equality is unabashedly theological. For some, I suppose this might be a good reason to dismiss Locke’s account of political authority out of hand. One might complain that Locke’s depiction of the law of nature as a theological premise might have gone over in the late seventeenth century, when theism was a broadly shared premise, but contemporary philosophers really should look to establish their arguments on more plausible or at least less contentious grounds.

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<sup>132</sup> Waldron, 83, 84, 106.

<sup>133</sup> Ibid., 22.

Not surprisingly, contemporary interpreters of Locke's political thought such as Robert Nozick attempt to motivate the idea of basic moral equality simply on the basis of the intuitive plausibility of the law of nature; thus the common saying that Nozick offers "Locke without God." Jeremy Waldron dismisses what he refers to as the "bracketing strategy"—that is, the attempt to separate Locke's explicitly theological claims from his moral claims.<sup>134</sup> Waldron argues that once we bracket off the theological components of Locke's political thought, we can no longer explain the significance of the particular faculty that endows all human beings with basic moral equality.

But I don't think Waldron's rejection of the bracketing strategy is correct. It's true that we need to explain the moral significance of the faculty of abstract reasoning, but we can just as well do it without referring to God, as long as we posit the law of nature as an intuitively plausible axiom of morality. Consider that in §63 of the *Second Treatise*. Locke states that "[t]he *freedom* then of man, and liberty of acting according to his own will, is *grounded on* his having *reason*, which is able to instruct him in that law he is to govern himself by, and make him know how far he is left to the freedom of his own will."<sup>135</sup> This claim suggests that the moral significance of abstract reasoning resides in its ability to define moral agency as well as the proper objects of moral concern. Possessing the faculty of abstract reason allows us to know the law of nature and regulate our actions in the light of its moral demands. In short, one is a moral agent only insofar as one can exercise one's faculty for abstract reason in coming to know the law of nature and "how far he is left to the freedom of his own will." The faculty of abstract reason also identifies the objects of moral concern as those beings whose possession of reason underwrites a

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<sup>134</sup> Ibid., 81.

<sup>135</sup> Locke, *Second Treatise of Government*, §63, 35.

liberty that other moral agents ought to respect. This is what I take to be the meaning of Locke's claim that the freedom of man is grounded on his having reason. Thus, the faculty of abstract reason answers in one fell swoop the two basic questions that any moral theory should answer: Who is a moral agent, and to whom do we owe moral concern?

True, we could then go on to explain the significance of the law of nature in light of a God who has created the world for his own divine purposes, but what reason is there to think that this a further necessary step? If the idea that we have natural duties of care to others and ourselves has some intuitive plausibility—and I think it does—then how does that additional move really improve the explanatory power of the Lockean account? Whether we explain the moral significance of abstract reasoning by appeal to the probative force of moral intuition or God, I suggest that both are adequate to the task. Every argument needs to have a starting point, and I believe that an appeal to intuition in this case is sufficiently basic and more likely to persuade than an appeal to theological suppositions that are no longer widely shared.

I have presented what I take to be Locke's account of political authority, as well as the underlying moral theory regarding the moral significance of certain faculties that all of us share. Locke's idea that certain kinds of creatures enjoy a "natural liberty" from being subjected to authority to which they have not consented, and that these creatures enjoy a basic moral equality characterized by reciprocal rights to life, liberty, and property, is a cornerstone of modern Western liberalism. I have attempted to present Locke's position in the strongest terms possible because I think there is a lot to recommend it.

However, the idea of natural liberty and basic moral equality seems to pose a problem when we finally turn to consider the moral status of children. Children are creatures like us—at least to some extent—and yet Locke tells us they are subject to authority to which they do not consent. Why may parents treat children in ways that they may not treat other human beings? What justifies the denial of basic moral equality to children?

### ***Locke's Argument for Limited Parental Authority***

Given Locke's account of limited political authority, the moral status of children may seem unproblematic. Locke argues that there is a threshold condition—I have argued that it is the measure of abstract reason necessary to know the law of nature—that creatures must satisfy in order for them to be included among the set of special creatures endowed with a basic moral equality that morally prohibits their subjection to authority without their consent. Insofar as parents may subject their children to their authority regardless of whether their children do or even can consent, the justification for why children are denied basic moral equality seems obvious. It must be that children do not satisfy the threshold condition necessary for the endowment of basic moral equality. Indeed, Locke suggests as much when he writes that:

The *freedom* then of man, and liberty of acting according to his own will, is *grounded on* his having *reason*, which is able to instruct him in that law he is to govern himself by, and make him know how far he is left to the freedom of his own will.<sup>136</sup>

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<sup>136</sup> Locke, *Second Treatise of Government*, §63, 35.

Locke's entire argument for basic moral equality is contained in this passage. To be naturally free, one must know the natural law. In order to know the natural law, one must possess an adequate measure of the relevant cognitive faculty—that is, abstract reason. Thus, those beings that do not possess an adequate measure of the relevant cognitive faculty are not naturally free, and may be subject to authority to which they do not consent.

But the claim that children do not satisfy the threshold condition for basic equality raises as many questions as it answers. If children are not entitled to basic equality, then what exactly is their moral status? There are other sorts of creatures that are not entitled to basic equality—for example, cows. May we treat children the way many of us believe we may treat cows? Of course, even cows are part of God's creation and thus enjoy some kind of moral status; Locke claims that we may not wantonly destroy any of God's creatures, "but where some nobler use than its bare preservation calls for it."<sup>137</sup> In other words, I take it that I may not bash a cow over the head with a baseball bat just for the fun of it, but I suppose I may be permitted to slaughter and eat it. Granted that cows and children do not merit the protections of basic equality, why may parents not treat their children "as if [they] were made for [their] uses, as the inferior ranks of creatures are for our's [*sic*]"?<sup>138</sup> It can't just be that children aren't tasty enough.

We could just as well ask questions regarding the moral status of a number of types of beings that do not satisfy the threshold condition for basic equality and yet we intuitively believe deserve some sort of special moral consideration. Locke is well aware that there are categories of human beings—biologically human, even if not fully human

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<sup>137</sup> Ibid., §6, 9.

<sup>138</sup> Ibid.

in the moral sense—that occupy a vague position between “the inferior ranks of creatures” and those human beings endowed with basic moral equality. These biological human beings suffer from “defects that may happen out of the ordinary course of nature” that prevent them from satisfying the threshold condition for basic moral equality.<sup>139</sup> “Defective” human beings may not be entitled to basic moral equality, but neither may they be treated the way we may treat brute animals. Thus, Locke claims that “lunatics,” “madmen,” and children are not capable of living as free men because they lack the cognitive faculty necessary to apprehend the law of nature and determine its intrapersonal and interpersonal limits. For Locke, “lunatics” are those defective human beings who will never satisfy the threshold condition for basic equality. Their subjection is permanent. “Madmen” are those who once satisfied the equality condition but no longer do and may once again in the future. Their subjection is possibly temporary. “Children” are those who have not yet satisfied the equality condition but most likely will in the future. Their subjection is probably temporary.

Locke claims that human beings possessing an adequate measure of the relevant cognitive faculty necessary for knowing the law of nature may subject all three types of defective human beings to their authority, regardless of whether the governed consent to such subjection. Before saying more about the duration, limits, and moral foundations of this subjection, I think we ought to evaluate Locke’s claim that although defective human beings are not endowed with basic moral equality, neither may they be treated as we may treat brute animals. On Locke’s view, what morally distinguishes defective human beings

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<sup>139</sup> Ibid., §60, 33–34.

from brute animals who also fail to satisfy the threshold condition for basic moral equality?

Unfortunately, I don't think Locke has a satisfying answer to this question when it comes to the permanently defective. Given Locke's account of the grounding of basic moral equality, a biological human being that will never satisfy the threshold condition for basic equality has more in common with brute animals than Locke may care to admit. Unless Locke can specify additional reasons why permanently defective human beings deserve special moral consideration, he cannot account for our strong intuition that even permanently defective human beings deserve to be treated with more moral consideration than any brute animal. One immediate possibility is simply to assert that the fact that one is biologically human—that is, has human DNA, to put it in more contemporary terms—entitles one to some degree of special moral consideration. However, I think it is difficult to explain why the mere fact of biological similarity justifies the kind of moral duties we believe we have toward those human beings who will never satisfy Locke's threshold condition for basic moral equality.

One other possible way to account for the special moral status of the permanently defective is to posit the existence of a natural hierarchy among the animals. The capacity of animals to make moral claims on us would be sensitive to the degree to which they approach the relevant cognitive faculties of non-defective human beings. But even if we were to concede that a permanently defective human being deserves all the moral consideration due to a high-functioning chimpanzee, I still think it's embarrassing if Locke can't explain why permanently defective human beings may not be treated the way we may treat chimpanzees. Of course, the treatment we owe chimpanzees remains

controversial, but even if one were to believe that chimpanzees may be sacrificed for the sake of scientific research, it is clear that this would not necessarily settle the question whether a permanently defective human being may be sacrificed for the sake of scientific research. All in all, it is very hard to resist the intuition that permanently defective human beings are morally distinct from high-functioning chimpanzees, even if Locke's exclusive emphasis on abstract reason can't account for that intuition.

One may think that Locke's failure to account for our intuition that permanently defective human beings are morally distinct from brute animals should prompt us to consider the possibility that additional properties—presumably, noncognitive properties—constitute sufficient criteria for basic moral equality. But it is very hard to specify what these noncognitive properties might be. One obvious suggestion is that permanently defective human beings are distinct from any brute animals because they are born of human parents. This suggestion seems promising in that it offers a way to distinguish permanently defective human beings from brute animals, while conceding that there may be no significant cognitive differences between them. However, it is not enough to specify just any difference between permanently defective human beings and brute animals. It must be a difference with morally significant consequences if we hope to account for our intuition that permanently defective human beings are due special moral consideration. But what is the moral significance of being “born of human parents”? I confess that I don't know.

Another avenue would be to jettison Locke's emphasis on abstract reasoning altogether, and consider explaining our moral concern for permanently defective human beings on an alternate basis. Historically, the property of sentience—the capacity to feel

pleasure and pain—has been an attractive alternative to the alleged moral significance of possessing certain cognitive capacities. On this view, because permanently defective human beings—defective only in their capacity for abstract reasoning—nevertheless remain sentient, we have a duty to treat them as objects of moral concern. Sentience would secure some kind of moral status for permanently defective human beings, but only by also extending that status to a wide range of brute animals as well, who also experience pain and pleasure. The result is that we are able to account for the moral status of permanently defective human beings, but not the intuition that their moral status is distinct from brute animals. We may find this result less worrisome since an emphasis on sentience may rule out treating brute animals in any way we please, but we must still acknowledge that we have failed to vindicate our intuition that there is something morally special about human beings despite their inability to meet the threshold condition Locke specifies as a prerequisite to basic moral equality.

Locke's response when it comes to the moral status of human beings whose relevant cognitive deficiency is only possibly or probably temporary is more promising. For one thing, madmen and children are different from brute animals in that they at least have the potential to satisfy the threshold condition at some point in the future. If we have a duty to respect those able to know the law of nature, then we might have a duty to treat those potentially capable of knowing the law of nature in ways distinct from how we may treat brute animals.

Here's a possible objection to the idea that defective human beings with the potential to satisfy the threshold condition for basic human equality have a special moral status distinct from brute animals: Why not think that the *potential* for basic human

equality only gives rise to a *potentially* distinct moral status from brute animals? In the absence of this potential being made actual, the allegedly distinct moral status of defective human beings is also not made actual. Thus, we may treat madmen and children the way we treat brute animals.

I think this objection can be met once we consider the possibility that it is not the actual ability to satisfy the threshold condition for basic moral equality that grounds the distinctive moral status of children, but only their potential to one day satisfy the threshold condition for basic moral equality. On this view, the moral status of children is derived from the moral status of fully functioning human beings, and yet is robust enough to justify the intuition that although children may be subject to authority without their consent, they nevertheless are entitled to be treated in ways that we need not treat brute animals. Thus, the moral status of children constitutes a middle position between human beings who already satisfy the threshold condition for basic moral equality and brute animals that will never satisfy the threshold condition.

Locke embraces the idea that it is the potential for satisfying the threshold condition for basic moral equality that grounds the distinctive moral status of children. Memorably, he writes:

*Children*, I confess, are not born in this full state of *equality*, though they are born to it. Their parents have a sort of rule and jurisdiction over them, when they come into the world, and for some time after; but it is a temporary one. The bonds of his subjection are like the swaddling clothes they are wrapt up in, and supported by, in the weakness of their infancy: age and reason as they grow up, loosen them, till at length they drop quite off, and leave a man at his own free disposal.<sup>140</sup>

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<sup>140</sup> Ibid., §55, 31.

For Locke, basic moral equality is a child's birthright, but until he or she is able to claim that right through the development of their capacity for abstract reason, he or she is properly subject to the authority of his or her parents. However, the parent's authority is "a sort of rule and jurisdiction" in that it is limited in duration. Children are not subject to the authority of their parents indefinitely. Rather, the parent's authority over his or her children only persists for as long as the children remain in the "weakness of their infancy." With experience, the parent's authority is gradually diminished proportional to the emerging capacity of the child to freely comply with the law of nature, until one day when the bonds of parental subjection fall completely away, leaving a human being free from subjection to any authority to which he or she does not consent.

In addition, Locke claims that the scope of parental authority is limited in light of the child's distinctive moral status as a being with the potential to one day satisfy the threshold condition for basic moral equality. Inasmuch as the law of nature obligates us to respect the rights to life, liberty, and property of all those who satisfy the threshold condition of basic moral equality, the very same natural law obligates us to raise our children in a way that facilitates their development into beings entitled to basic moral equality. Thus, Locke writes "*all parents were, by the law of nature, under an obligation to preserve, nourish, and educate the children they had begotten.*"<sup>141</sup> The scope of parental authority is limited to those things necessary for raising a child to one day assume his or her rightful status as our moral equal.

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<sup>141</sup> Ibid., §56, 32.

How exactly does Locke specify the scope of parental authority? What are the sorts of things that a parent must provide in order for a child to realize his or her eventual status as our moral equal? It is clear that parents may not kill their children, or starve them, or deprive them of the opportunity to develop the relevant cognitive faculties. This is the sense in which parents are obligated to “preserve, nourish, and educate” their children. If the duties of preservation, nourishment, and education are justified as the necessary means to raising a child entitled to basic moral equality, then it is difficult to clearly delineate the limits of parental authority—the point at which a parent overreaches in the exercise of his or her authority over a child. In other words, Locke argues that parental authority is justified over children insofar as parents “seek and procure their good for them.”<sup>142</sup> An important question that I take up in the following chapter is whether Locke’s emphasis on abstract reason as the modest threshold condition for basic moral equality generates surprisingly narrow limits on what can be considered to be child’s good.

Given Locke’s claim that we have an obligation to develop our children into our moral equals equipped to go about God’s business on earth, we also have reason to wonder whether the law of nature obligates us to have as many children as possible. Briefly entertaining this question ultimately provides us with an additional reason to bracket Locke’s theological justification for basic moral equality. For if we grant Locke’s theology, we would then believe that in respecting the basic equality of others we are facilitating the doing of God’s business on earth. But then it is reasonable to suppose that we would also have a duty to do what we can to increase the number of beings equipped

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<sup>142</sup> Ibid., §60, 34.

and dedicated to doing God's business on earth. Because Locke's God is omnibenevolent, it makes a lot of sense to think that the more beings dedicated to realizing his perfectly beneficial plan, the better.

If we don't bracket Locke's theological justification for basic moral equality, we would have to contend with two intuitively unattractive implications. First, if a duty to do what we can to increase the number of beings equipped and dedicated to doing God's business on earth were to exist, we would be committed to claiming that there is at least a *prima facie* moral duty to have as many children as possible, consistent with both maintaining our own ability to go about God's business as well as providing the care and resources necessary to raise each child to stake their claim to basic moral equality. But I don't think that people who choose not to have children, or parents who choose to stop reproducing even though they could conceivably raise more children capable of satisfying the threshold condition for basic moral equality. are doing anything *prima facie* wrong.

Second, and perhaps more troubling, is the implication that parents are doing something *prima facie* wrong when they choose to bring a pregnancy to term when they know that the child will never satisfy the threshold condition for basic moral equality—for example, the fetus has been diagnosed in utero with a severe mental disability—and that choosing to raise the cognitively disabled child will likely result in a reduction of the resources necessary to support the raising of additional children with normal cognitive prospects. In this case, I think a Lockean may be committed to believing that the parents are obligated to abort the disabled child in the hopes of trying to get pregnant again with a child who has a chance to develop into a fully functioning human.

It may be morally permissible for the parents of a fetus diagnosed with a severe mental disability to terminate the pregnancy, but it is very hard to swallow the claim that they are morally obligated to terminate it. But without an account of what makes human life valuable apart from the development of beings dedicated to God's business on earth, defenders of Locke's theological approach may have difficulty explaining how parents may morally refuse to abort a fetus that has no chance to be endowed with basic moral equality.

These two unappetizing implications provide further reason to bracket Locke's theological justification in favor of an interpretation of the law of nature as an intuitively plausible axiom of morality, rather than a divine decree. The most we should be willing to concede is that given that parents already have a child with the capacity to one day satisfy the threshold condition for basic moral equality, they are then morally obligated to facilitate the development of their child into a human being that satisfies that threshold.

In stark contrast to Hobbes, Locke argues that parental authority is limited in duration and scope because the law of nature obligates parents to preserve, nourish, and educate their children. Accordingly, Locke wonders what sorts of consideration could possibly transform parental authority "whose power reaches no farther . . . as he finds most effectual, to give such strength and health to their bodies, such vigour and rectitude to their minds, as may best fit his children to be most useful to themselves and others" into an "*absolute arbitrary dominion*" of the parent over the child.<sup>143</sup> Nevertheless, Locke does agree with Hobbes that parental duties are correlated with filial obligations of gratitude such that no state could ever absolve a child from a "perpetual obligation of

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<sup>143</sup> Ibid., §64, 35.

*honouring their parents.*”<sup>144</sup> But, Locke continues, there is no reason to think that honoring one’s parents entails absolute obedience to their commands. As he points out, “[I]t is one thing to owe honour, respect, gratitude and assistance; another to require an absolute obedience and submission.”<sup>145</sup>

Locke’s position on parental authority falls somewhere between Grotius’s claim that the mere act of begetting endows a parent with authority, and Hobbes’s view that only the consent of the child can endow a parent with authority over his or her child. In contrast to Grotius, Locke denies that the “bare *act of begetting*” gives a parent any measure of authority, and yet he also resists Hobbes’s strict voluntarist account of parental authority.<sup>146</sup> It is a virtue of Locke’s account that parents must earn their authority over their children by providing the appropriate care, and thus may lose it when they fail to preserve, nourish, and educate their child. In addition, it is to Locke’s credit that his account does not depend on the dubious idea that children are capable of giving morally binding consent to their treatment. For Locke, parental authority is ultimately a “natural *government*” that does not depend on the consent of the child, but only on the normative requirements of the law of nature.<sup>147</sup>

In the next chapter, I begin to develop my own positive account of parental authority—a view I call “parental liberalism.” I do so by first considering recent attempts to demonstrate that parents have no special moral authority over their children. Analogous to the claims of philosophical anarchism, child liberationists believe that parental authority cannot be reconciled with children’s fundamental moral rights.

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<sup>144</sup> Ibid., §66, 36–37.

<sup>145</sup> Ibid., §66, 37.

<sup>146</sup> Ibid., §65, 35–36.

<sup>147</sup> Ibid., §170, 88–89.

Although I argue that we should ultimately dismiss child liberationism as a plausible response to the problem of parental authority, the view does contain a number of important insights about how we should think about parental authority. My goal is to show that parental liberalism can incorporate the most compelling aspects of child liberationism while avoiding its worst excesses.

#### ***Chapter 4: A Critique of Children's Liberation***

In the previous chapter, I argued in favor of a particular methodological approach to the question of parental authority. On my view, we should not uncritically accept John Locke's claim that the questions of parental and political authority may be pursued independently of each other. Instead, we should explore the nature of parental authority without presuming from the start that it has little to do with the nature of political authority. The principal aim of this chapter is to begin sketching my positive account of parental authority—a view I call “parental liberalism.” My plan is to situate parental liberalism among competing theories of parental authority. Ultimately, I believe that a consideration of alternate theories of parental authority serves to distinguish parental liberalism from its competitors, and demonstrates the extent to which parental liberalism is able to integrate the most promising aspects of competing views, while avoiding its most significant errors.

##### ***Parental Liberalism and Children's Liberation***

For anyone familiar with the scant philosophical literature surrounding children's rights or parental authority, it may seem that parental liberalism, with its endorsement of a very limited conception of parental authority, is simply a species of what I labeled the “children's liberation” literature in the introductory chapter of this essay. Because child liberationists claim that parental authority is far more limited than we ordinarily believe, one may assume that parental liberalism is nothing more than a plea for children's liberation couched in Lockean language.

However, the child liberationists that I mention at the beginning of this essay go far beyond the claim that parental authority is very limited. Children's liberation is conceptually distinct from parental liberalism in its insistence that parents do not have any distinctive moral powers over their children. In other words, being a parent in either the biological or social sense carries with it no special moral entitlement to command obedience from one's children. Child liberationists deny the existence of parental authority in the same way that philosophical anarchists deny that the state has any moral power over its citizens. Instead of arguing for a qualified conception of parental authority, child liberationists argue that we need to jettison the idea of parental authority altogether.

Take for instance the work of Richard Farson and John Holt as two paradigmatic child liberationists. Neither Farson nor Holt are widely read today in philosophical circles, but I still want to consider their work for two reasons. First, their position represents a logically possible view on the nature and limits of parental authority that needs to be at least briefly addressed if we hope to provide a comprehensive defense of parental liberalism. Of course, one might object that not all logically possible views are worth serious consideration. That may be true, but the second reason why we should consider the child liberation view is that doing so helps us appreciate the most distinctive and promising features of parental liberalism. In short, parental liberalism benefits from a comparison with the child liberation movement, insofar as we see the ways in which parental liberalism incorporates much of what is valuable in the child liberation literature, and yet avoids its most significant mistakes.

In 1974, Farson and Holt published books arguing for universal child emancipation, seven years after the U.S. Supreme Court decided in favor of the plaintiff in the case of *In Re Gault*. *In Re Gault* asked whether the Fourteenth Amendment right to due process applied to children being tried in delinquency hearings. The court found in favor of the plaintiff—a minor detained in state custody for making allegedly pornographic phone calls—and unleashed a significant, widespread, but ultimately brief interest in children’s moral and legal rights. The emergence of the child liberation movement in the 1970s reflected an increasing conviction among some advocates that children should be included in the widening scope of the moral community. The civil rights movement of the 1960s had emboldened the women’s rights movement of the 1970s, which some assumed would in turn bolster a movement for children’s emancipation from what was seen as the oppressive modern regime of parental authority.

The most sophisticated versions of the child liberationist view target the Lockean approach and its central claim that basic moral equality depends on the development of moral and cognitive faculties that enable one to freely comply with the law of nature.<sup>148</sup> The child liberationist aims to vindicate two related claims. The first claim is that we are not in a position to reliably assess the ability of children to satisfy the threshold conditions for basic moral equality. The second claim is that basic moral and legal equality does not actually depend on the satisfaction of Lockean threshold conditions. In effect, the child liberationist first concedes—for the sake of argument—the Lockean approach to parental authority, but only to show that it rests on a unjustifiable perception

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<sup>148</sup> In fact, the child liberationist focuses on both the moral and legal emancipation of the child. Parental liberalism is primarily a theory about the moral rights of children, and largely defers the legal status of children as a related but distinct question. In contrast to most of the relevant literature, parental liberalism recognizes that questions about legal rights often involve special epistemic considerations that deserve independent analysis. I will say more about these considerations later in this chapter.

of children as morally and cognitively deficient. He then argues that even if Locke is right to assume that children cannot satisfy the relevant threshold conditions, it still does not follow that they should be denied basic moral and legal equality. For the child liberationist, basic moral and legal equality is unjustly deferred on the basis of the relevant natural deficits. It is, in the words of Richard Farson, a “birthright” that ought to be immediately granted to every child regardless of his or her age or faculties. If Hobbes represents an extreme position on the spectrum of views regarding the nature of parental authority—the claim that it is absolute—child liberationists like Farson and Holt represent the opposite extreme: the claim that parental authority does not exist, and that children should be endowed *from birth* with all the moral and legal protections and responsibilities that ordinary adults enjoy in a liberal democratic society.

To develop the first line of their criticism, child liberationists often begin with the historical claim that the perception of children’s nature has changed over time. Drawing on the influential and controversial work of the social historian Philippe Ariès, child liberationists claim that the idea of childhood as a special developmental period, and children as having a special moral and political status, is relatively novel and profoundly unfortunate.<sup>149</sup> For example, Ariès claims that children in medieval times were simply treated as adults who happened to inhabit smaller human bodies. They were dressed as little adults, fed a normal adult diet, fully integrated into typically adult activities, and treated as moral equals in terms of the entitlements they could claim, the responsibilities they shouldered, and the duties they were owed. Historically, it wasn’t until Rousseau in the eighteenth century that the ideological framework for thinking of children as

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<sup>149</sup> See Philippe Ariès, *Centuries of Childhood*, trans. Robert Baldick (London: Jonathan Cape, 1962).

possessing certain cognitive and moral deficits, appropriately living in a world apart from adults, was firmly established.

The child liberationist's focus on the history of childhood is meant to challenge accounts of parental authority—like Locke's—that depend on the idea that we may deprive children of certain moral and legal rights on the basis of their natural moral and cognitive deficits. If these deficits are not entirely the product of nature, but rather to some extent the result of children being raised in oppressive social circumstances, then we may no longer be able to justify depriving children of basic rights and liberties on the basis of their allegedly natural inferiority. Instead, we should seek to reform the institution of parenthood so that children's natural capacities, whatever they may be, are no longer stunted by an adult world that corrupts children into wholly dependent and subordinate members of the family.

The child liberationist assumes that an awareness of the history of childhood gives rise to skepticism about whether the observed deficits of children necessarily reflect the full range of their natural capacities that would be expressed under alternate social and political arrangements. Thus, Farson claims that the fact “that the concept of childhood has changed so radically throughout history and from culture to culture” entails “that there is no way of establishing historically or culturally what a child is.”<sup>150</sup> The conclusion he draws is that modern childhood is “not a natural state,” but merely a social “myth” that deserves to be debunked.<sup>151</sup> On his view, the modern treatment of children has supposedly produced unhappy children who find themselves subject to a comprehensive and tyrannical regime of parental authority in which they are unfairly

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<sup>150</sup> Farson, 17.

<sup>151</sup> Ibid., 18.

deprived of the most basic rights to control their own bodies, relationships, education, and futures. Once we become aware of the historical contingency of the modern institution of parenthood, we are able to see the ways in which young people could be much happier and healthier than they are today. All that remains to do is to replace the modern conception of childhood with one that justifies the full integration of the child back into the social world in which ordinary adults live.

What should we think of the child liberationist's appeal to history? First off, there are reasons to doubt that the historical data Ariès cites actually establishes his thesis regarding the historicity of childhood. The most notable example is his reliance in *Centuries of Childhood* on historical records that document the upbringing of a child who will one day become King Louis XIII of France. It may be true that as a boy the future French monarch was not treated as we treat children today, but it is questionable what we may conclude about historical conceptions of childhood on the basis of such an exceptional case. Surely, the childhood of the French dauphin is hardly representative of what it was to be a child in seventeenth-century Europe.

In addition, Ariès supports his thesis regarding the equal treatment of children in medieval times on the basis of contemporaneous painted images that depicted children as wearing ordinary adult clothes and exhibiting the bodily dimensions of an adult albeit on a smaller scale. What we may conclude about the medieval idea of childhood on the basis of its artistic and devotional images is not clear. But it is certainly not obvious that the norms that govern artistic production at any one time necessarily reflect widespread ideological trends, rather than simply aesthetic conventions or the limitations of an artistic community that had not yet discovered the science of perspective.

But even were we to cast aside our doubts about Ariès's evidence to entertain the claim that the idea of childhood has been subject to historical transformation, it should be noted that the historicity of childhood does not entail that the modern idea of childhood is merely an ideological invention that does not reflect the natural capacities of children. That ideas of childhood have changed over the years does not undermine the possibility that our modern conception of childhood is in fact the true conception. Indeed, the irony of the child liberationist's use of Ariès's work is that Ariès is largely critical of the way children were treated in the past, and is sympathetic to the modern exclusion of children from the adult world of work and leisure.

In relying on the Ariès thesis, the child liberationist seems to confuse the idea of historical contingency with the idea of truth. The modern proponent of childhood as having a special moral and legal status need not claim that theirs is the only conception of childhood ever formulated; they can easily concede that the idea of childhood has changed over time, and yet maintain that the modern conception is based on the genuine moral and cognitive faculties of children. More would need to be shown before we can conclude that the history of childhood alone somehow entails or even suggests that the modern conception of childhood is false.

The child liberationist's appeal to history is meant to convince us that the modern conception of the child relies on a false perception of children's natural cognitive and moral capacities. I have argued that the mere fact of historical change regarding the idea of childhood gives us no reason to doubt the veracity of the modern conception. However, there is another, and I think more promising, claim that often appears in the child liberationist literature: the idea that we cannot justify the institution of parental

authority on the basis of a child's natural moral and cognitive deficits because we do not really know the natural capacities of children. For instance, Farson writes that "as long as we deprive the child of his right to self-determination we cannot even assess his potentialities."<sup>152</sup> On his view, because "society actually creates innocence and helplessness in children, we do not, and cannot, know if there are in fact any characteristics that are inherent in children."<sup>153</sup> Notice that Farson has shifted from doubting the modern conception of the child's natural capacities to doubting whether we can ever have reliable knowledge of the child's natural capacities in the first place.

The child liberationist's skepticism resonates with the kind of argument John Stuart Mill employs in criticizing the moral and legal subordination of women in Victorian England. Here is the gist of Mill's argument as he presents it in *The Subjection of Women*:

. . . I deny that any one knows, or can know, the nature of the two sexes, as long as they have been seen in their present relation to one another. If men had ever been found in society without women, or women without men, or if there had been a society of men and women in which the women were not under the control of the men, something might have been positively known about the mental and moral differences which may be inherent in the nature of each.<sup>154</sup>

On Mill's view, we may not reliably infer the natural inferiority of women on the basis of what their moral and intellectual capacities appear to be in a society that denies them the freedom to live as they choose. Similarly, we may not conclude on the basis of their moral and political supremacy that men naturally possess superior moral and cognitive faculties. In the case of women, it is possible that their alleged inferiority reflects the

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<sup>152</sup> Ibid., 32.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid., 22.

deprivations of their present social position, rather than their genuinely natural deficits. And in the case of men, it is possible that their alleged natural superiority reflects the entitlements and privileges they enjoy in a society engineered for their advancement, rather than their genuinely natural talents. Without a more principled way to distinguish between the forces of nature and custom, we have no rational basis on which to justify the subjection of women as an appropriate response to their natural inferiority, or the empowerment of men as the fitting response to their natural superiority. And without such a basis, the moral and legal subjection of women to the rule of men on the basis of any alleged moral and cognitive deficits cannot be sustained.

However, we should be careful not to exaggerate the implications of Mill's argument. He is not arguing against the existence of human nature. Mill is clear in claiming that nature endows us with a mix of abilities and disabilities that are bound to influence the course of our lives, regardless of the social world into which we are born. Indeed, he specifies the conditions in which we would be able to more reliably assess the inherent talents and abilities of the two genders. On his view, we can only begin to glimpse the natural capacities of people once they are granted the moral and legal freedom to pursue lives of their own choosing. For Mill, the question of human nature is critical for human progress—assuming, as he does, that human happiness will depend at least to some extent on people doing that which they are most naturally fit to do; but we cannot begin to answer it so long as half of the adult population is denied the opportunity to explore their natural endowments through experimentation with the myriad forms of life and work that would be available to them in a society founded on the equality of the sexes. According to Mill, it is only through a process of trial and competition in a free

society that people are ever able to discover the talents and shortcomings that are granted them by nature.

Mill punctuates the above argument with this puzzling addendum:

What is now called the nature of women is an eminently artificial thing—the result of forced repression in some directions, unnatural stimulation in others. It may be asserted without scruple, that no other class of dependents have had their character so entirely distorted from its natural proportions by their relation with their masters.<sup>155</sup>

What is puzzling is the apparent incoherence involved in claiming that under conditions of social and political inequality one cannot reliably assess the natural capacities of either men or women, and then immediately arguing that the “feminine” qualities of weakness, emotion, and submissiveness are not natural, but only the distorting influences of a patriarchal society intent on sacrificing the liberty of women to the interests of men.<sup>156</sup> If Mill is not in a position to reliably assess the natural capacities of women—Victorian England was, after all, a deeply unequal society when it came to the roles of men and women in society—how could he state with such confidence—“without scruple,” in fact—that women’s nature has been “entirely distorted from its natural proportions”? If the first part of his argument were true, then Mill would have to concede that he is not in a position to know women’s “natural proportions,” and thus cannot assess the degree to which they have been distorted.

On a biographical note, Mill enjoyed an exceptionally egalitarian marriage in the last few years of his life with Harriet Taylor. Taylor was, by all accounts, an extraordinary intellectual whom it is said deserves as much credit as Mill for the arguments presented in *The Subjection of Women*. And so it may be that Mill had an

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<sup>155</sup> Ibid., 22.

<sup>156</sup> Ibid., 16.

intimate familiarity with the intellectual abilities of his wife. Of course, that may not be enough to support a generalization as to the moral and intellectual capacities of women as an entire class of human beings. But perhaps Mill's confidence in the natural talent of women reflects a belief that if any women could manage to cultivate their moral and intellectual abilities in Victorian times, then we can only imagine the feats women may accomplish when they no longer live in a society designed to arrest their moral and cognitive development.

An important element of Mill's view is the insistence that we must be morally sensitive to the plight of the individual woman, and not simply the general category of women. In the absence of social and legal equality, Mill declares that no authority is entitled to "fix beforehand, on some *general* presumption, that certain persons are not fit to do certain things [emphasis mine]."<sup>157</sup> Of course, there is the possibility that women granted social and political equality may actually turn out to be naturally inferior to men in morally salient ways. However, Mill claims that even if a majority of women are naturally inferior in morally salient ways there will nevertheless remain a minority of "exceptional cases" in which they do not hold.<sup>158</sup> And to deny basic moral and legal equality to those individuals who compose the "exceptional cases" constitutes an injustice to the individual, and an overall detriment to society. The just society, according to Mill, is one in which social and legal arrangements are not predicated on ideological assumptions about the natural capacities of certain classes of persons over the more fine-grained, empirical judgments that are possible when individuals have had the opportunity to experiment with the various options available to them in a free society. Mill's plea in

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<sup>157</sup> Ibid., 19.

<sup>158</sup> Ibid.

favor of the emancipation of women is ultimately an argument in favor of treating each individual as she deserves to be treated, and not simply as a member of a group that is presumed without warrant to be morally and intellectually inferior.

The child liberationist can be interpreted as applying Mill's argument in favor of the emancipation of women to the case of children. Much of the child liberationist literature ultimately reduces to a constant refrain: we do not really know what children are like, or what their capacities are. Insofar as the subjection of children to the authority of parents is premised on their alleged moral and cognitive deficits—the Lockean approach—their subjection may be based on a self-serving prejudice rather than a rational assessment of their morally relevant capacities.

Not surprisingly, the child liberationist's prescription mirrors the one Mill advocates in *The Subjection of Women*. In the absence of knowledge regarding the natural capacities of children, there is no warrant for depriving children of social and legal equality. Only after we have emancipated children by endowing them with the full scheme of moral and legal rights that ordinary adults enjoy will it be possible to reliably judge whether a child is capable of exercising the moral and cognitive capacities necessary to satisfy the threshold condition for basic moral equality. Echoing Mill's conviction that women are the moral and cognitive equals of men, the child liberationist is confident that once children are given the benefits of moral and legal equality from birth, they will not fail to promptly meet the threshold conditions on which basic moral and legal equality depends.

I think Mill offers us two attractive ideas that should guide our preliminary thinking about the moral status of children, and the limits of parental authority. The first

is Mill's skepticism about our capacity to know the natural capacities of any person denied moral and legal equality. The second is Mill's emphasis on the individual as a primary object of moral concern, and not simply the particular demographic classes or categories to which an individual may belong. In the remainder of this first section, I aim to show how parental liberalism incorporates Mill's two ideas, and yet succeeds in avoiding the child liberationist's worst mistakes.

A sympathetic study of the child liberationist literature suggests that any plausible theory of parental authority needs to accommodate Mill's skepticism regarding our capacity to know the natural capacities of a person denied political and social equality. In assessing the morally relevant capacities of children, it seems impossible to tease apart the influence of nature from the influence of living in a world that deprives them of basic rights and liberties. Any claim that an observed moral or cognitive deficit in a child is natural is equally evidence for the claim that the deficit is the product of social forces. This is due to the inescapably social context in which the human personality develops and is expressed. We do not have continuous access to the "natural child" unmediated by the forces of society; all we may do is observe how children act, and then infer the extent to which their moral and cognitive capacities are the product of nature or nurture. Of course, what Mill's argument shows is that evidence for the one is equally evidence for the other. The end result is a thoroughgoing skepticism about our ability to reliably know the natural capacities of children denied from birth political and social equality with ordinary adults.

Taking Mill's skepticism seriously presents a problem for any theory that endorses Locke's central claim that the natural deficits of children justify our withholding

from them a full scheme of moral and legal rights. If we cannot find a way to limit the relevance of Mill's argument, it seems impossible to justify a theory of parental authority that assumes that children and adults are naturally distinct in morally relevant ways. Parental liberalism attempts to incorporate Mill's skepticism about natural capacities in a way that need not deny the existence of parental authority. If we hope to reconcile the possibility of parental authority with Mill's skepticism regarding natural capacities, we need to narrow the scope of Mill's argument in a way that allows for the imposition of parental authority over the most plausible candidates for natural moral and cognitive deficits: newly born children.

In its original formulation, Mill's argument is meant to undermine our confidence in our ability to reliably infer that the alleged moral and political inferiority of women is the result of their natural incapacities. As I've said, I think this argument is persuasive, especially when we have in mind adult women whose alleged deficits are plausibly the results of social prejudice and oppression, rather than any natural deficits. But when we turn to the case of children, the claim that children are born naturally unable to exercise the full capacities of an ordinary adult seems undeniably true. Is this claim necessarily inconsistent with Mill's skepticism? If so, then it is hard to see how we could justify the subjection of children to parental authority on the basis of their natural deficits.

To begin, it is one thing to contend that under certain conditions the natural capacities of children cannot be known, and quite another to suggest that there are no morally relevant differences regarding the natural capacities of children and ordinary adults. Conceding the first clause leads us to parental liberalism; conceding the second clause leads us to the child liberationist view, and its claim that children are entitled to

basic moral equality from birth. But we can avoid having to endorse child liberationism once we realize that Mill's argument only applies to persons whose moral and cognitive development is subject to social forces, and not simply the imperatives of nature.

Neonates and infants are born with various incapacities that can only be the product of nature because social and political influences and institutions have not yet had a chance to influence their development. Accordingly, we can justify parental authority from at least the start of a child's life on the basis of his or her purely natural moral and cognitive incapacities. Insofar as parental authority is a response to the morally relevant deficits of childhood, a parent's authority over his or her child is never as comprehensive and robust as it is over their newly born child.

So the force of Mill's argument does not come into play until some time after a child's birth, once the child is capable of being subject to the influences of culture and society. When exactly a child's development becomes subject to social forces is not obvious or uncontroversial, but we can safely concede that it is not long after the child begins to interact with its parents and environment.<sup>159</sup> The significance of Mill's skepticism is that once a child's development becomes a product of both nature and society, we can no longer know a priori what aspects of a child's personality are the result of his natural endowments, or merely the effects of being born into a particular social and political arrangement. But in order to justify the continued deprivation of moral and legal equality on the basis of natural deficits, we need to find a way to objectively ascertain the current state of a child's natural moral and cognitive capacities

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<sup>159</sup> Indeed, a central theme of feminist literature about children is the way that society imposes gendered expectations on children far earlier in their lives than is commonly assumed.

for achieving free compliance with the law of nature. The solution is what I call “experimental parenting.”

Experimental parenting explains how we may move from an original situation of the most robust and comprehensive parental authority to the eventual emancipation of children. It argues for the piecemeal and gradual emancipation of children, rather than total and instantaneous emancipation when they reach the so-called age of majority. Mill’s argument shows that we cannot know a priori at what rate a child’s natural capacities are developing. It is only by allowing a child to act at liberty that we can hope to assess the degree to which they have developed the morally relevant natural capacities. But if we extend the full scheme of moral and legal rights to a child unprepared to shoulder its moral responsibility, the results could be disastrous to the child and to others. The more reasonable alternative is to incrementally extend a measure of liberty to a child as a way to gauge its natural development.

Experimental parenting is the process by which parents may assess the natural capacities of their children by experimentally granting them a measure of liberty that they may or may not actually be entitled to. Whether they are or not will ultimately depend on the way the child responds to their newly granted freedom. If they are able to exercise their newly granted freedom in a way that does not violate the law of nature, then it is reasonable to conclude that they have managed to cultivate to an adequate degree the natural capacities necessary to balance the freedom in question with the demands of the natural law. If a child exercises her newly granted freedom in a way that undermines their natural obligations, or the natural rights of others, then it is clear that they have not yet developed the necessary natural capacities, and a parent is obligated to revoke the liberty

in question, at least until there is further evidence that a child is able to exercise the liberty in question in a morally responsible way.

Of course, a parent should not experiment with their children's liberty haphazardly. Instead, a parent must seek to minimize the severity and irreversibility of the moral interests at stake when they experiment with extending liberty to their child. For instance, a parent should begin by granting her young child the liberty to determine when he should go to sleep, rather than whether he should attend school—on the assumption that there are likely to be less serious consequences attending a chronically sleepy child than an illiterate one.<sup>160</sup> The principle animating experimental parenting is clear: in assessing the natural capacities of children, parents should do so in a way that exposes their child to no more moral risk than is necessary to disclose the current state of their child's cognitive and moral development. Experimental parenting assumes that the ability to comply with the dictates of the natural law involves certain faculties—for example, the ability to recognize and assess relevant evidence, or the subjection of various psychological impulses to rational control—that must be cultivated on the basis of trial and error. It further assumes that a child exercising the liberty granted to them in an area of their life in accord with the natural law constitutes some degree of evidence that the child may be able to properly exercise liberty when granted to them in an area of their life in which marginally more important moral interests are at stake.

The measure of liberty that parents may extend to their children on an experimental basis does not yet constitute a child's genuine moral right to be free from

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<sup>160</sup> Whether a child may decide to forgo his schooling is not a simply a private matter within the family. The state rightly takes an interest in an educated citizenry. For the sake of simplicity, I am here trying to sketch an account of experimental parenting apart from the complicating question of the legal claims the state may press against parents and their children.

authority in the relevant domain of action. Moral rights must be earned through demonstration of the capacity to exercise the right within the intra- and interpersonal confines set forth in the law of nature. It not until a stable capacity to freely and properly exercise the liberty in question is demonstrated that the child's moral right is established, and can serve as a specific limit on the authority of his parents. However, any moral right a child lays claim to in the course of their upbringing is not irrevocable inasmuch as there must be moral—and often legal—consequences when persons exercise a liberty in a way that violates their natural moral obligations to themselves or others.

If parental liberalism endorses experimental parenting as the solution to the puzzle as to how to reconcile Mill's skepticism with Locke's emphasis on natural deficits, one may wonder who is to be invested with the authority to make the kinds of judgments necessary to determine the moral rights to which a child may be entitled. To reliably assess when it would be proper to extend a particular measure of liberty to a child requires a deep and intimate knowledge of a child's character and relevant capacities. It is reasonable to assume that the most likely candidate to possess the required knowledge would be the child's primary caregiver. A child's primary caregiver need not be the child's biological parent, but only his parent in the social sense (i.e., one who assumes the primary responsibility to raise a child).

However, a parent's judgment as the moral rights to which a child may be entitled is neither infallible nor incorruptible. It is easy to imagine a case in which a parent may fail to create the conditions necessary to assess the natural capacities of her child in a reliable and timely manner. Parental liberalism recognizes the need and permissibility of administrative and civil institutions in which children and their advocates may receive a

fair hearing as to whether they are entitled to at least demonstrate the extent to which they deserve more liberty than they have yet been granted by their primary caregivers.

The idea of experimental parenting is not presented as a prudent or good way for parents to raise their children, although it may be both. Rather, the parental liberal employs experimental parenting because he or she believes that children are morally entitled to demonstrate the extent to which they may have cultivated the relevant capacities that ground their claim to an increasingly broad sphere of liberty in their lives. Of course, it is up to parents as epistemically privileged caregivers to judge when and how a child should be allowed to experiment with liberty, although it does not then follow that there cannot be administrative and civil oversight regarding those judgments. Ultimately, children make no moral claim on their parents when it comes to the exercise of any particular liberty. Rather, children make a moral claim to be given the opportunity to demonstrate the extent to which they are entitled to the liberty in question. If this opportunity is not granted, then there can be no justification for parental authority predicated on the natural deficiencies of children without remaining vulnerable to the objection that parental authority is nothing more than an unwarranted subjection of children to the tyranny of parental power.

Mill's claim that individuals should be a primary object of moral concern when it comes to the moral status of women (or as we shall see, children) is the second idea that any plausible theory of parental authority ought to endorse. Both advocates and opponents of children's rights make the same mistake of uncritically assuming that the appropriate object of our reflections must be "children" understood as a more or less homogenous group of persons exhibiting more or less similar developmental trends.

Indeed, at the heart of Locke's account on parental authority is a generalized conception of children's natural development premised on the presumption that children naturally develop in more or less the same way at more or less the same rate.

But we should be careful to distinguish between two questions. The first is a normative question about the necessary and sufficient conditions for parents to exercise authority over their children. I think Locke offers a plausible response to this first question in his emphasis on the significance of certain cognitive and moral capacities for an entitlement to basic moral equality. But there is also a second empirical question about who as a matter of fact ought to be subject to parental authority. In other words, we can have a plausible account of what must be true about anyone appropriately subject to parental authority—that is, they have not yet developed the moral and cognitive capacities necessary for basic moral equality—and yet not settle the question of who among us is appropriately subject to the authority of their parents.

Following Mill, parental liberalism adopts Locke's normative understanding of parental authority without assuming that all children develop in the same way at the same time. In effect, parental liberalism rejects the widespread assumption that there is one basic developmental scheme for all children in favor of an empirical, case-by-case sensitivity to the diversity and variation in children's cognitive and moral development. As Mill reminds us in the case of women, even if children generally tend to exhibit similar moral and cognitive capacities at similar ages, this is entirely consistent with the existence of statistical outliers who may confound the expectations of even the most informed developmental psychologist. Ultimately, whether a particular child meets the minimal threshold for basic moral equality should not be decided on the mere fact of his

or her age, but rather on the basis of his or her demonstrated capacity to freely comply with the dictates of the natural law. To do otherwise would be to deny an individual the liberty to which they are entitled, or, perhaps equally as unfortunate, grant liberty to one who does not yet deserve it.

Parental liberalism may take the individual child as a primary object of moral concern, but that is not to say that the individual is always the only proper object of moral concern. There are cases in which it is appropriate to take groups of persons—presumed to be alike in some respect—as the relevant object of our moral theories, but these cases involve special epistemic conditions and interests. For instance, in passing abstract and general laws regarding children, the state may properly concern itself with “children” rather than any particular child. Thus, the state may be justified in legislating that sexual relations with any person under the age of sixteen is in all cases punishable by law. Unlike individual parents, the state is not always in a position to make fine-grained judgments about the moral and cognitive capacities of individual children to understand the consequences or interests at stake in being sexually active. It must instead assume a perspective in which aggregates take precedence over individuals, at least at the legislative level. This is entirely appropriate given the interests and epistemic position of the state.

But there is no reason for parents to assume a similar perspective in which the actual capacities of their individual children may be ignored in favor of academic judgments about the psychological and moral development of children. Parental liberalism follows Locke’s approach in establishing the normative conditions that must be met in order for children to be granted basic moral equality, but leaves open the

question of when a child deserves to enjoy the full scheme of moral rights that we associate with ordinary adults. In assessing the moral status of children and in the absence of special epistemic considerations, parental liberalism favors the empirical judgments of parents over the theoretical generalizations of social science.

I have argued that we can assimilate many of the child liberationist's most compelling insights, and yet resist his or her most extreme errors. Crucially, we can endorse Mill's skepticism without having to concede that children are entitled to basic moral equality from birth. However, all I have shown thus far is that parental liberalism can be conceptually distinguished from the child liberationist view. I haven't yet shown exactly why and how child liberationism goes awry.

The flaws of the child liberationist view come into focus once we start to apply pressure to its strongest and most distinctive claim that all children from the moment they are born should be endowed with a full scheme of basic moral rights and liberties. What does this claim really amount to? As John Holt puts it, child liberationism argues that "the rights, privileges, duties, responsibilities of adult citizens [should] be made *available* to any young person, of whatever age, who wants to make use of them."<sup>161</sup> On his view, if a person of whatever age and developmental capacity wants to vote, work, own property, travel, choose one's guardian, dictate the course of one's own education, assume legal and financial responsibility, use recreational drugs, drive a motor vehicle, or have sex, then we are morally and legally obligated to respect their right to self-determination. Holt cautions us that children who wish to drive would still have to satisfy the standards and requirements the state sets for adults who wish to obtain a license. It is not the abolition

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<sup>161</sup> Holt, 18.

of all standards, Holt says he advocates, but only the abolition of the double standards that deprive children of their rights and liberties for no good reason.

Likewise, Farson argues that “[t]he achievement of children’s rights must apply to children of all ages, from birth to adulthood.”<sup>162</sup> Anticipating the obvious objection that very young children lack the necessary cognitive and moral faculties that render them the appropriate bearers of moral and legal rights, Farson argues that “rights cannot be withheld from the very young solely on the basis of age any more than they can be withheld from the very old who may be similarly incapacitated.”<sup>163</sup> Farson’s claim benefits from a subtle shift from emphasizing age as the sole basis for the denial of moral and legal equality to “incapacitation” as the reason for denial. The parental liberal is sympathetic to the suggestion that age *simpliciter* is not a sufficient reason to deny a person basic moral equality. Instead, the pertinent question is whether age reliably correlates with morally salient deficits regarding the capacities of the person in question. In this sense, parental liberalism sees a person’s age as providing at best a *prima facie* but not sufficient reason to deny basic moral equality.

Farson’s appeal to the “incapacitation” of the very old is meant to generate a *reductio* argument in favor of the unconditional emancipation of children. If we believe that we are not morally permitted to deprive the very old of basic rights and liberties on the basis of morally relevant incapacitation, then the implication is that we are also committed to believing that such deprivation is impermissible when applied to the very young who “may be similarly incapacitated.” Unfortunately, the *reductio* never gets off

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<sup>162</sup> Farson, 31.

<sup>163</sup> Obviously, Farson assumes that we intuitively dismiss the permissibility of depriving old people of certain rights and liberties if they lack the relevant moral and cognitive capacities. If Locke is right, then I do not see what is so objectionable in holding that an old person incapable of complying with the law of nature is not entitled to basic moral equality.

the ground because the parental liberal is ready to agree that it may be permissible to deny the very old of certain rights and liberties—not on the sole basis of their age, but because their incapacitation undermines their ability to exercise all basic moral rights and liberties in accordance with the natural law. Parental liberalism construes age—the simple fact that one is very young or very old—as an insufficient reason to deny basic moral equality. However, if the sole emphasis on incapacitation entails that the very old may be deprived of basic moral equality, the parental liberal is prepared to bite that bullet in the name of philosophical consistency.

But the child liberationist remains undaunted because he knows his position ultimately depends on an argument that strikes at the heart of the Lockean approach to parental authority. For leading child liberationists like Farson, the “inability to exercise one’s rights at any age, old or young, should simply mean that even greater care must be taken by society to guarantee the protection of these rights.”<sup>164</sup> In essence, Farson believes that the existence of moral rights is not dependent on any consideration of whether or how a person might exercise the rights in question. This, then, is their most radical doctrine: children possess certain moral and cognitive deficits, but these deficits are not grounds for denying them a full scheme of moral rights. All that is relevant, according to the child liberationist, is that children have interests, and that these interests entitle them to a full scheme of moral and legal rights.

What should we think of the child liberationist’s attempt to sever the connection between the possession of moral rights and the bearer’s capacity to exercise these rights in a certain way? First off, it is plausible to think that some moral rights do not depend on

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<sup>164</sup> Farson, 31–32.

whether we are able to exercise them in a certain way, or even exercise them at all. The right to own property is a good example. One may still retain a right to own property even if one is not in the financial position to afford to buy any.

However, other rights do not seem to be like the right to own property, but rather are sensitive to considerations of the moral and cognitive capacities of the potential rights bearer. Consider what I have called “liberty rights,” understood as moral rights that establish a person’s immunity from coercion in how they formulate, revise, and pursue a conception of the good. Liberty rights do depend on whether and how a potential bearer is able to exercise them. Why? Because to think otherwise is to suggest that any being with interests is entitled to a full scheme of moral and legal rights. But all sorts of beings have interests, if by “interests” we simply mean a stake in satisfying one’s needs and desires. Dogs then have interests, as do fish, since all the lower animals have a stake in satisfying their needs and desires. Thus, the child liberationist succeeds in winning moral rights for children from birth, but only by justifying the extension of moral rights to an implausibly wide range of beings.

The child liberationist may respond that children may be morally distinguished from the lower animals because unlike the lower animals, human children have the potential to develop certain moral and cognitive capacities. Of course, the Lockean conception of the moral status of children depends heavily on the idea that children are potentially able to satisfy the threshold conditions of basic moral equality. The parental liberal recognizes that the potential capacities of children do underwrite a special moral status that constrains them from being treated as we may treat other kinds of animals. But it doesn’t follow that potential moral capacities give rise to actual moral rights. Potential

capacities only give rise to potential rights. Thus, the child liberationist is wrong to assume that children are deprived of their moral rights if they cannot first convince us that children have natural moral rights to be deprived of.

One may worry that the above argument simply puts the child liberationist on the defensive, when what we really want is a conclusive reason to reject the child liberationist's view of parental authority. I believe there is just such a reason once we realize all the things that a plausible theory of rights should be able to explain. First, a plausible theory of rights must be able to explain the limits of rights. In other words, we want to know not only what qualifies one as a rights bearer but also what disqualifies one from being a bearer of rights. Second, a plausible theory of rights should be able to explain the value of rights. We want to know not only why a rights-bearer should value his or her moral rights, but also what reason we have to value the protection of those rights. In short, a plausible theory of rights needs to explain the value and limits of rights.

The child liberationist's theory of rights fails to explain either. By severing the connection between moral rights and certain moral and cognitive capacities, the child liberationist is unable to explain why and when one may permissibly be deprived of one's moral rights. If the possession of rights does not depend on the capacity of the bearer to exercise them in a certain way, then on what grounds may one be deprived of moral rights? The familiar idea that one is entitled to moral rights so long as one doesn't violate the moral rights of others is not available to the child liberationist. To admit that one may be deprived of moral rights if they fail to exercise them in a certain way opens the door to the Lockean approach that moral rights ultimately depend on certain capacities of the rights-bearer. Because the child liberationist maintains that moral rights in no way

depend on the capacities of the bearer, they struggle to explain the intuition that our moral rights may be inalienable but are not unconditionally granted.

Similarly, the child liberationist cannot account for the objective value of moral rights. For the Lockean, moral rights have an inherently teleological structure. One is entitled to basic moral equality insofar as they exercise their moral rights toward the morally valuable ends of securing their self-preservation, and respecting the rights of others to the same. In this sense, the value of moral rights is justified as an instrumental good, focused on the attainment of an independent and objectively valuable end. One may reject Locke's particular vision of the objective value of moral rights—Locke's reliance on theistic premises is an understandable concern—but one would still have to concede that his teleological approach is able to provide a comprehensive account of the nature of moral rights in human society.

We should emphasize that the teleological structure of Lockean moral rights should not be confused with consequentialist views in which rights are justified as means to producing the greatest happiness of the greatest number. In previous chapters, I have emphasized the way in which Lockean rights do not aim to optimize human happiness, but rather provide individuals with moral immunity so long as they secure their self-preservation and respect the rights of others to the same. In this sense, Lockean rights secure the prospects of a minimally decent life but in no way guarantee that individuals will live the best possible human lives. Locke's theory of rights is closer to deontological accounts in which moral rights reflect the particular status of the rights-bearer, rather than any consideration of producing the greatest aggregate utility. In any case, I want to emphasize that regardless of whether one endorses the consequentialist or deontological

justification of moral rights, both accounts acknowledge the importance of the capacities of rights-bearers in coming to terms with what reason we have to respect the moral rights of others.

Child liberationism represents a radical departure from teleological accounts of moral rights. In claiming that very young children are entitled to a full scheme of moral rights simply because they have interests that these rights would advance, the child liberationist implies that the value of moral rights does not depend on whether one may exercise them, or to which ends one may exercise them. But what reason do we have to respect the moral rights of others if the only reason they possess them is that they promote the satisfaction of their interests? There is no guarantee that one's interests will have any independent moral value. For instance, a serial killer has definite interests in the stalking and pursuit of his victims, but it doesn't follow that we have any reason to respect the moral rights of a serial killer to satisfy their particular interests. Without specifying an independent, objectively valuable end toward which moral rights must be exercised, the child liberationist cannot explain why anyone but the rights-bearer has a reason to value the possession and exercise of moral rights.

The unconditional emancipation of children is thus purchased at a very high price. Very young children may be entitled to a full scheme of moral rights, but only by undermining our ability to articulate why we should care about respecting their right to live a life of their own choosing. In the end, an undisciplined appeal to interests alone cannot do the job. In order to explain the objective value of moral rights, we must make an appeal to the capacity of the rights-bearer to realize a morally valuable end that ultimately transcends the simple, unqualified satisfaction of one's subjective interests.

In contrast to child liberationism, I have tried to suggest that parental liberalism endorses the existence of parental authority, and thus the permissibility of denying to children the sorts of moral rights to which ordinary adults are entitled. It also endorses the Lockean view that basic moral equality is both justified and limited by the ends to which that equality is exercised. It may seem that parental liberalism is nothing other than Locke's account under different cover. However, while parental liberalism may adopt Locke's fundamental approach to the question of parental authority, it goes on to argue that this approach ultimately commits us to a conception of parental authority that is surprisingly limited in scope and duration. It is to this conception that I now turn.

## ***Chapter 5: Parental Authority in the Light of Locke's Politics***

In chapter 3, I argued that we ought to formulate a theory of parental authority in light of our most plausible ideas about the nature and limits of political authority. The assumption that parental authority is a completely freestanding object of philosophical inquiry need not follow from the more plausible assumption that parental and political authority do not share identical moral foundations. The aim of this chapter is to consider the implications of this methodological approach for the analysis of parental authority. I argue that once we put Locke's account of political authority into conversation with his account of parental authority, we discover a tension between his views regarding the duration and scope of parental authority, and the conception of basic moral equality that informs Locke's views on political authority in the *Second Treatise*. To resolve this tension, I defend a particular account of parental authority—what I call “parental liberalism”—as the most plausible reconciliation of parental authority with the fundamental ideas and values that properly guide our thinking about authority in other domains of life.

### ***Parental Liberalism and the Duration of Parental Authority***

The Hobbesian believes that the duration of parental authority is in principle unlimited. The child liberationist believes it has no duration simply because there is no such thing as parental authority. The Lockean claims that the duration of parental authority is limited. The parental liberal agrees with the Lockean, but insists that parental authority ends far earlier than the Lockean realizes. The commonsense picture of the

duration of parental authority—roughly endorsing Locke’s approach—is that parents have authority over their children from birth until the age of majority, which is usually judged to be anywhere from sixteen to twenty-one years old. After the child reaches the age of majority, they are assumed to have developed the relevant moral and cognitive faculties that entitle them to the liberty rights we associate with Locke’s concept of basic moral equality.

The implications of Locke’s account of basic moral equality, however, lends credence to the idea that at least some children may be entitled to basic moral equality long before they have reached the conventional age of majority. Remember, there is no difficulty in claiming that only some children may be entitled to basic moral equality before the conventional age of majority, since parental liberalism takes the individual child and not the aggregate category of “children” as the primary object of our moral analysis. Assuming that not all children develop the same moral and cognitive faculties at the same rate, we can reasonably entertain the suggestion that at least some children satisfy the threshold conditions for basic moral equality at a relatively young age.

Of course, one could easily concede the diversity of children’s moral and cognitive development and yet deny that any children are likely to develop the requisite level of moral, cognitive, and psychological facility that basic moral equality requires. Much would depend on how demanding we think are the threshold conditions for basic moral equality. Once we have an answer to that question, we can begin to see the plausibility of the parental liberal’s claim that at least some children will satisfy the threshold conditions of basic moral equality earlier than we generally suppose.

As previously discussed in chapter 3, Locke argues that any being who develops the moral and cognitive capacities necessary to freely and reliably comply with the law of nature is entitled to basic moral equality. Specifically, the moral, cognitive, and psychological faculties Locke has in mind are the capacity for abstract reason—that is, the ability to reason on the basis of general ideas—and the ability to subject one’s desires and inclinations to the force of reason. The capacity for abstract reason allows us to recognize the abstract concept of a law and the existence of a lawgiver to whom we are bound. The psychological capacity to subject our inclinations to the force of reason allows us to reliably comply with our natural duties. Taken together, these capacities constitute the mark of those special beings that are the exclusive property of God, and thus may not be used by any human being without their consent.

In contesting commonsense ideas about the duration of parental authority, it is tempting to press the possibility that children may develop an adequate capacity for abstract reason before they reach the conventional age of majority. To employ this argumentative strategy would require us, of course, to clarify the nature of abstract reason, and its developmental relationship to other modes of cognition. I suppose we would could begin by examining Book II of Locke’s *Essay*, in which he claims that the power to formulate and reason on the basis of general ideas (i.e., ideas abstracted from particular circumstances) is the third distinctive faculty of the human mind.<sup>165</sup>

I seriously doubt, however, that a philosophical investigation into the intrinsic nature of abstract reason as the prerequisite cognitive capacity for basic moral equality is

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<sup>165</sup> The first two distinctive activities of the human mind, according to Locke in Book II of the *Essay*, is the synthesis of simple ideas into more complex ideas, and the ability to relate two ideas to each other while keeping them distinct. See John Locke, *An Essay Concerning Human Understanding*, ed. Kenneth P. Winkler (Hackett Publishing Company, 1996), 33–64.

likely to generate compelling reasons to think that the duration of parental authority may be shorter than is commonly believed. If we sought to conduct an empirical study of the prevalence of children who exhibit the relevant cognitive ability at an early age, I suppose we would have no choice but to develop a finely detailed account of what it is to reason abstractly, at least in the morally relevant way. To do otherwise would leave the empirical scientist without any principled way to establish when a child meets the criteria of abstract rationality. But this is not the sort of study a philosopher trained in conceptual analysis is best positioned to conduct or assess. Accordingly, I think we can forgo a further exploration of the nature of abstract reason without undermining the philosophical argument I offer regarding the duration of parental authority.

I argue on conceptual grounds that there is reason to believe that at least some children are likely to develop the capacities required for basic moral equality earlier than is generally supposed. In contrast to the way a developmental psychologist would proceed, my view will not depend on an attempt to characterize and measure the prevalence of abstract reason in a population of children. I offer a more circumstantial yet philosophically compelling sort of argument. I argue that there is reason to believe that the moral, cognitive, and psychological capacities required for basic moral equality are relatively undemanding—so undemanding that it would be plausible to believe that at least some children satisfy the threshold conditions of basic moral equality long before they reach the conventional age of majority. To grasp my argument, we need to first consider the implications of Locke’s egalitarian politics.

As Jeremy Waldron argues in his *God, Locke, and Equality: Christian Foundations of Locke’s Political Thought*—an interpretation of the interplay between

Lockean theology, epistemology, and ethics—Locke sought to establish a conception of basic moral equality that would extend basic moral liberties and protections to a wide range of social classes exhibiting a wide range of moral and intellectual faculties.<sup>166</sup> Locke readily acknowledges that not all human beings are equally talented or accomplished in the exercise of abstract reason. Some ordinary adults are able to contemplate the foundational ideas and values that inform the Lockean account of human freedom, while others cannot begin to penetrate the reasons that generate our natural moral duties.<sup>167</sup> Nevertheless, Locke maintains that just about all adults are capable of exercising the “modicum of reason” that Locke saw as essential to at least practical compliance with the law of nature, even if only some ordinary adults are capable of grasping its theoretical justification.<sup>168</sup> In the end, Locke concedes the existence of natural moral and cognitive differences among human beings while denying that these differences necessarily entail differences in authority relations.

In an attempt to extend basic moral equality to all ordinary adults, Locke argues that basic moral equality only requires practical compliance with the law of nature—not theoretical understanding of its deeper justification—and that the minimal moral and cognitive faculties required to achieve practical compliance are so widely disseminated that all but the most mentally disabled adults are entitled to it. The result is an undemanding conception of the moral and cognitive faculties required for basic moral

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<sup>166</sup> See Jeremy Waldron. *God, Locke, and Equality: Christian Foundations in Locke’s Political Thought* (Cambridge: Cambridge University Press, 2002).

<sup>167</sup> I introduced the idea of an “ordinary adult” in chapter 1. Ordinary adults are adults who possess sufficient moral and cognitive faculties to satisfy the threshold conditions for basic moral equality. In contrast, some adults are denied basic moral equality because their permanent or temporary mental and psychological disabilities have deprived them of the intellectual capacities on which basic moral equality depends.

<sup>168</sup> Waldron, 22

equality. As Waldron repeatedly emphasizes, the capacity to freely comply with the natural law is “a rather modest intellectual capacity,” or in another instance a “very lowly intellectual capacity” that is possessed by a wide range of persons regardless of differences in social position, gender, wealth, and intelligence.<sup>169</sup> A central tenet of Locke’s egalitarian politics, according to Waldron, is the “fundamental adequacy of even the meanest intellect” to freely comply with the natural law, and thus secure moral immunity from coercion to which one does not consent.<sup>170</sup>

### ***Locke’s Dilemma***

The first premise of my argument is that Locke’s egalitarian politics entails that the threshold conditions for basic moral equality must turn out to be relatively undemanding if he hopes to vindicate the claim that roughly all ordinary adults are entitled to basic moral equality. Consequently, the undemanding quality of these threshold conditions ensures that at least some children will satisfy these conditions at a surprisingly early age. Of course, it is possible to advocate an account of basic moral equality that clearly excludes all children from its moral protections, but to do so would require endorsing a relatively more demanding conception of its threshold conditions. However, if Locke were to advocate a relatively demanding conception of the threshold conditions of basic moral equality, the risk is that far fewer ordinary adults would be able to satisfy the threshold conditions for basic moral equality.

The result is what I call “Locke’s dilemma.” He can justify the extension of basic moral equality to all ordinary adults, but at the expense of admitting that at least some

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<sup>169</sup> Ibid., 84.

<sup>170</sup> Ibid., 87.

children meet its relatively undemanding threshold conditions earlier than the conventional age of majority. Alternatively, Locke could reasonably exclude all children from basic moral equality by claiming that its threshold conditions are too demanding for children to satisfy, but it then follows that more adults than we currently believe would also fail to satisfy the requirements of basic moral equality.

It is no doubt logically possible for Locke's conception of the threshold conditions for basic moral equality to extend basic moral equality to all ordinary adults and no children. In other words, it is conceivable that there are no children who are capable of matching the moral and cognitive faculties of the least capable ordinary adults that are nevertheless entitled to basic moral equality. I concede that such a state of affairs is not impossible but nevertheless highly implausible given the structure of Locke's account, and what we know about the relative capacities of children and adults. Indeed, the only empirical claim on which parental liberalism depends is that some children are capable of satisfying the threshold conditions for basic moral equality at a significantly earlier age than the conventional age of majority. I believe this empirical claim becomes increasingly difficult to deny once we fully realize the conceptual implications of Locke's egalitarian aspirations.

Parental liberalism asserts that there are children who develop the minimal moral and cognitive faculties necessary to ensure their compliance with the natural law. In other words, there are children that before the conventional age of majority are able to freely comply with the moral duty to respect the life, safety, and health of others, as well as their own. These children—let's call them "responsible children"—willingly attend school, eat a healthy diet, and avoid dangerous activities and persons. They also exhibit a

willingness to assist others in securing these basic goods. In short, responsible children demonstrate the capacity to freely and reliably comply with the practical requirements of the natural law, even if they don't know or fail to grasp the deeper reasons why such compliance is morally obligatory.

Philosophically speaking, it is difficult to assess how prevalent responsible children are in any given population. For the purposes of the present argument, all we need to affirm is that they exist, and that their existence challenges the commonsense idea that the duration of parental authority extends to the conventional age of majority. In the end, my argument is that Locke's political egalitarianism has the unforeseen effect of undermining the commonsense picture of children as appropriately subject to the authority of parents until late adolescence.

Parental liberalism happily concedes that the average adult may be more intellectually capable than the average child in the morally relevant ways, but nevertheless maintains that morality doesn't always permit us to treat an individual child the way it would be appropriate to treat an average child. Besides, the relative moral and cognitive capacities of adults and children are not ultimately what matters in a Lockean framework. On the contrary, what matters is whether an individual satisfies the absolute standards established by the threshold conditions for basic moral equality.

The Lockean must admit that human beings develop their moral and cognitive faculties at different rates and to different degrees of excellence. Indeed, it is precisely the insight that basic moral equality can be made consistent with natural human diversity—at least in its cognitive dimension—that makes Locke's account of human freedom so formidable. There is, however, no reason to think that the moral and cognitive

development of children shouldn't exhibit all the diversity that we observe in the adult population. It would be very strange indeed if the mental capacities of children developed in a homogenous way until adulthood magically unleashed a torrent of cognitive diversity. Thus, given the diversity of children's moral, cognitive, and psychological development, and the undemanding threshold conditions for basic moral equality associated with Locke's egalitarian aspirations, the burden of proof is on anyone who denies the parental liberal's claim that at least some children satisfy the threshold conditions for basic moral equality at a surprisingly early age, and thus are emancipated from parental authority long before the conventional age of majority.

### ***Resolving Locke's Dilemma: The Case for Parental Liberalism***

Given the plausibility of Locke's dilemma, the important question is how best to resolve it. There are ultimately two ways Locke could respond to this dilemma: he could either endorse a conception of threshold conditions that justifies the extension of basic moral equality to all ordinary adults and some children, or he could endorse a relatively more demanding conception that justifies the denial of basic moral equality to all children and some ordinary adults. He cannot have it both ways. The question is which is the better way to resolve the dilemma: extend basic moral equality to some children, or deny it to some ordinary adults?

The choice for anyone who values the exercise of liberty rights within the limits established by our natural moral duties is to favor the extension of basic moral equality over its contraction. Absent countervailing considerations, there is a *prima facie* reason to extend basic moral equality to any individual or group of individuals with the minimal moral and cognitive capacities necessary for free compliance with the law of nature. The

chronological age of an individual is not a reason *simpliciter* to withhold liberty rights from one who is capable of exercising them responsibly. The prima facie reason to extend basic moral equality to responsible children vindicates the parental liberal's claim that the duration of parental authority may be far shorter than is commonly believed.

What might be the sorts of countervailing considerations that would justify withholding basic moral equality from responsible children? One possible case would be if the extension of basic moral equality to responsible children—itsself justified by an underlying commitment to the value of liberty—undermined another deeply held value such as fairness. Consider the possibility that parental liberalism would warrant treating identical twins in the same family in vastly different ways when it comes to the freedom to determine the course of their own lives. Such a discrepancy may seem to constitute the all too familiar sin of parents “playing favorites.”

However, treating children of the same age in morally different ways is only unfair when such differential treatment is doled out on an arbitrary or unjust basis. For instance, a parent that sets a curfew of ten p.m. for one twin but allows the other to stay out as long as he wants simply because he is a better singer than the other is clearly guilty of unfair treatment based on morally irrelevant considerations. In contrast, treating one's twins in morally different ways because one child has demonstrated that he knows and reliably complies with his natural moral duties is not objectionable. Being denied moral freedom based on a morally irrelevant consideration is one thing, but being denied moral freedom based on a morally relevant, objective, and public basis is quite another. It may turn out that being denied moral freedom on this second basis need not have the effect of alienating a child, but may rather motivate him to demonstrate to his primary caregivers

that he too can know and reliably comply with the minimal moral expectations incumbent on all free persons.

Another possible countervailing consideration that would justify withholding basic moral equality from responsible children would be if its extension would involve some sort of intractable administrative problem. Making the judgment that a twelve-year-old child is responsible requires a significant degree of intimacy and experience. It may be quite difficult or burdensome for a parent to invest the time and energy that is necessary to produce reliable judgments about his or her child's moral capacity. In the face of this difficulty, it may seem permissible for the parent to withhold basic moral equality from his or her child until a time when making such important judgments is more convenient.

It would be one thing if it were somehow impossible for the parent to accurately assess their child's level of moral responsibility. Moral philosophers never tire of reminding us that because "ought implies can," we are only morally obligated to perform those actions that it is possible for us to perform. The above objection, however, stipulates that investing the time and energy necessary to make a reliable judgment about a child's moral development is possible albeit difficult and burdensome. In that case, a parent is not relieved of a moral obligation to provide opportunities for his child to demonstrate his ability to balance liberty with natural morality. Nor is the parent morally permitted to prioritize other goods—work, leisure, etc.—in a way that deprives the child of a fair and informed assessment of their moral responsibility at reasonable intervals. Parental liberalism recognizes that there are moral claims on parents to periodically assess their child's moral and cognitive development, and that the choice to raise a child

imposes on the parent additional moral obligations distinct from providing such usual basic goods as nourishment, shelter, and clothing.

There may be additional considerations that could undermine parental liberalism. I have offered above two plausible candidates for countervailing consideration that would undermine parental liberalism, and then argued why I think neither offers compelling reasons to conclude that parental liberalism is false. Additional considerations will have to be assessed on a case-by-case basis. Nevertheless, absent such countervailing considerations, we should conclude that parental liberalism offers us a way to reconcile our deep commitment to liberty rights with the egalitarian aspirations of Locke's politics.

Before we move on to consider the proper scope of parental authority, it is helpful to emphasize Locke's dilemma as a paradigmatic example of the way in which the moral status of children is conceptually tied to the moral status of adults. A principal aim of my overall project is to question the segregated way that we generally approach questions about the moral and political status of children and adults. We too often approach questions about the moral status of children and adults as if they pose two entirely separate and distinct cases. Locke's dilemma suggests that how we understand the moral and political status of adults can have significant implications for how we understand the moral status of children, and vice versa. Once we grasp the deep way in which the moral categories regarding adults and children are conceptually related, we realize that segregating questions about these categories runs the risk of philosophical incoherence.

### ***The Scope of Parental Authority***

I have argued that the egalitarian aspirations of Locke's political thought entails that the duration of parental authority may be far shorter than we generally suppose. In

this section, I want to consider the conceptual implications of Locke's politics for the scope of parental authority. It would be helpful at the outset to define what I mean by the "scope" of parental authority. If the duration of parental authority concerns the chronological extent to which a parent may exercise authority over his or her child, then the scope of parental authority concerns the sorts of matters over which a parent may have authority over his or her child. To say that the scope of parental authority is narrower than we generally suppose is to argue that the most defensible account of parental authority endows a parent with the moral power to command in fewer areas of his or her child's life than common sense would have us believe.

In chapter 2, I presented and rejected Hobbes's argument that the scope of parental authority is unlimited in both its duration and its scope—that is, parents are morally permitted to command their children in virtually all matters in perpetuity. According to Hobbes, a parent's commands impose obligations of obedience on a child in all cases, except those cases in which the child's self-preservation is directly threatened. Only in those extreme cases may a child rightfully defy her parent, although it does not follow in Hobbes's account that the parent does not then have the moral right to command the child to act in a way that undermines the child's self-preservation, but only that the child does nothing wrong in refusing to comply with such a command.

In contrast to Hobbes, Locke's account of parental authority endorses a basic principle that constitutes the moral foundation of a parent's authority, as well as the grounds of its limitations. As Locke writes in the *Second Treatise*:

Paternal or parental power is nothing but that which parents have over their children, to govern them for the children's good, till they come to the use of reason, or a state of

knowledge, wherein they may be supposed capable to understand that rule, whether it be the law of nature, or the municipal law of their country, they are to govern themselves by . . . <sup>171</sup>

On Locke's view, the aim of parental authority is to govern for the "children's good."

Thus, insofar as a parent exercises parental authority in a way that benefits the child, it would seem the child is morally obligated to obey. Parental authority, according to Locke, comes to an end once a child develops into an individual with the cognitive, moral, and psychological capacities necessary for free and willing compliance with the law of nature.

Locke's account of parental authority clearly succeeds in establishing what I call a "lower limit" for parental authority in that it morally prohibits parents from murdering and abusing their children. In other words, Locke refutes absolutists like Filmer and Hobbes by asserting that parents may not treat their children as if they were their exclusive property with which they may do whatever they wish. Of equal importance, however, is the related question as to whether Locke's approach also implies an "upper limit" to parental authority that would impose moral limits on parental authority exercised for the good of the child. In other words, are children morally obligated to obey their parents's commands in all matters related to the good life? It is one thing to believe that children are obligated to obey parental commands in matters that bear on their immediate personal safety—for example, "Hold my hand when we cross the street"—and quite another to believe that they are always obligated to obey their parents when it

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<sup>171</sup> Locke, *Second Treatise of Government*, §170, 88–89.

comes to the various religious, philosophical, and aesthetic commitments that compose a life well lived.

The central interpretative problem with Locke's account in the *Second Treatise* is his ambiguous appeal to the promotion of a child's "good" as the justification and guide for the exercise of parental authority.<sup>172</sup> The Lockean appeal to the "good" of a child is consistent with two distinct accounts of parental authority: one that rejects an upper limit to parental authority, and one that endorses the existence of limits to parental authority even when exercised for the good of the child. Let's call the first account "parental perfectionism" and the second "parental liberalism." We can all agree with Locke that parental authority should be exercised for the benefit of children, and yet still disagree about whether parental perfectionism or parental liberalism is true.

The ambiguity of Locke's appeal to a child's good remains even when we turn to his other writings on education and child rearing. In his most sustained meditation on child rearing and education—*Some Thoughts Concerning Education*, published four years after the *Second Treatise*—Locke offers something like a comprehensive manual for raising a son to assume the station and duties of a gentleman, rather than a philosophical treatise on the limits of parental authority. Begun as a series of letters to his friend, Edward Clarke, Locke's text offers advice on an astounding range of topics, from diet to sleep to the best way to teach a child to read Latin. Throughout the text, Locke

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<sup>172</sup> I am not alone in making this criticism: David Archard writes that "beyond the need to satisfy the obligation to care for the child, and respecting the child's right to life and liberty, Locke does not clearly specify the constraints on legitimate parental authority." See David Archard, "John Locke's Children," in *The Philosopher's Child: Critical Perspectives in the Western Tradition*, eds. Susan M. Turner and Gareth B. Mathews (Rochester, NY: University of Rochester Press, 1998), 94.

emphasizes that the primary aim of parenting is the transformation of children into “virtuous, useful, and able men.”<sup>173</sup>

After careful reading of Locke’s writing on child rearing, I believe it remains unclear whether Locke is best categorized as a parental perfectionist or parental liberal. The parental perfectionist and parental liberal may both agree with Locke that the aim of parenting is to produce virtuous, happy people, but nevertheless disagree about whether parents are entitled to command their children in all matters relating to the cultivation of virtue and happiness. There is a momentous distinction between *parenting* and *parental authority*. The practice of parenting involves a broad range of noncoercive methods including rational persuasion, the provision of rewards, and various forms of mimetic education. In contrast, parental authority involves those areas of life in which a child is morally obligated to obey the commands of his or her parent. Locke, however, never clarifies whether the cultivation of virtue in children may be subject to the authority of parents. As a result, we cannot derive any conclusive answer to the question whether Locke is best categorized as a parental perfectionist or parental liberal. Thus, we ultimately look in vain to Locke’s educational writings to help decide whether his account of child rearing endorses or rejects the existence of an upper limit to parental authority.

In the remainder of this chapter, I attempt to show that despite the lack of conclusive evidence as to whether Locke is best classified as a parental perfectionist or parental liberal, there are nevertheless reasons to believe that a Lockean approach to parental authority is ultimately committed to the existence of limits to parental authority

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<sup>173</sup> John Locke, *Some Thoughts Concerning Education and Of the Conduct of the Understanding*, ed. Ruth W. Grant and Nathan Tarcov (Indianapolis: Hackett Publishing Company, Inc., 1996), 8.

exercised for the good of the child. I again draw inspiration for my viewpoint from Locke's own political views—specifically, his argument for religious toleration. I begin by tracing Locke's argument for religious toleration, and then argue that it applies not only to religious beliefs but also to any sort of religious, moral, or aesthetic commitment the value of which depends on being freely chosen. Lastly, I argue that Locke's argument in favor of religious toleration is relevant to the question of parental authority, and ultimately supports the existence of moral limits to parental authority even when exercised for the good of the child.

### ***Locke's Argument for Religious Toleration***

In his *Letter Concerning Toleration*, Locke sets out to argue for the “mutual toleration of Christians in their different professions of religion.”<sup>174</sup> Characteristically, Locke begins distinguishing “exactly the business of civil government from that of religion.”<sup>175</sup> On his view, the commonwealth is instituted among men to advance their civil interests including rights to life, liberty, and property. Accordingly, the authority of the commonwealth is limited exclusively to the protection of these civil interests. Any exercise of political authority regarding matters indifferent to these civil interests is therefore beyond its proper scope.

For Locke, matters of faith and worship represent the paradigmatic example of an area of life that is both profoundly important to human virtue and happiness, and yet is immune from the reach of political authority as long as religious practice does not violate civil laws. Locke's primary argument in favor of religious toleration is addressed to those

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<sup>174</sup> John Locke, “Letter Concerning Toleration,” in *John Locke's Letter on Toleration in Focus*, eds. John Horton and Susan Mendus (London: Routledge, 1991), 14..

<sup>175</sup> *Ibid.*, 17..

who would justify the state's commanding and penalizing citizens in matters of faith and worship in the name of Christian charity and love. On this view, there is no emergency more pressing than the salvation of men's souls. Since there is only one way to salvation, it is the duty of every Christian to correct those that have not yet realized its clear direction. Because the exercise of political authority is an effective way to bring citizens to the true faith, the commonwealth is justified in legislating religious conformity, and punishing those who resist its attempts to put all men on the path to everlasting life.

The above argument, Locke believes, belies the fundamental truth that “[a]ll the life and power of true religion consists in the inward and full persuasion of the mind.”<sup>176</sup> The exercise of political authority—no matter how well meaning—cannot achieve the goal of imposing genuine salvation on the recalcitrant or wayward, since the state's power consists only in the “outward force” of commands and punishment.<sup>177</sup> Political authority can compel citizens to make vows of faith, or kneel at an altar, but it cannot directly engage a citizen's understanding. If a citizen lacks understanding why the true faith is indeed true, then no profession or ritual—no matter how exacting or precise—will secure the salvation of his soul. For Locke, it is not just the outward performance of one's faith that matters. It is also whether one grasps the truth of one's faith that determines entry into the world to come. Because the state's battery of commands and penalties cannot bring about the kind of faith that secures salvation, the proper functions of the state cannot include the policing of ecclesiastical and theological matters.

Locke's argument does not entail that the state must remain aloof from all religious matters. It may still do what any citizen may do in offering its citizens the

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<sup>176</sup> Ibid., 394.

<sup>177</sup> Ibid., 393.

opportunity to participate in a voluntary conversation about religious truth, “teaching, instructing, and redressing the erroneous by reason.”<sup>178</sup> Although the state possesses no special authority in matters of religion, neither is it deprived of the rights ordinary citizens have to enter into the free exchange of reasons with their fellows. Locke’s argument simply aims to show that it is irrational for the state to wield its distinctive moral powers of commandment and punishment in matters in religion. When wading into religious controversy, the state must remember “it is one thing to persuade, another to command; one thing to press with arguments, another with penalties.”<sup>179</sup>

Locke argues against the exercise of political authority in matters of religion because he claims that authority is only able to secure outward obedience, and not the kind of rational persuasion that underlies the possibility of genuine salvation. Before we can responsibly apply Locke’s view to the question of parental authority, we need to ensure that there is a version of the argument that can respond to the most formidable objection lodged against it. If we take the spirit of Locke’s argument to be that the nature of religious faith renders it an irrational and unjustifiable target for the exercise of political authority, then I think there is a version of Locke’s argument that can prove quite resilient.

Locke’s argument in favor of religious toleration has been the target of copious scholarly critique. The most formidable objection to Locke’s argument is that it presumes an overly narrow view of the epistemic influence that participation in a religious tradition—whether compelled or not—can have on the formation of religious belief.

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<sup>178</sup> Ibid., 395.

<sup>179</sup> Ibid.

Jeremy Waldron succinctly states the objection when he turns his attention to the “epistemic apparatus that surrounds and supports belief”:<sup>180</sup>

Suppose there are books and catechisms, gospels and treatises, capable of instructing men in the path of the true religion, if only they will read them. Then although the law cannot compel men coercively to believe this or that because it cannot compel the processes of the understanding, it can at least lead them to water and compel them to turn their attention in the direction of this material.<sup>181</sup>

Waldron concedes that political authority cannot *directly* influence the understanding, but he maintains that Locke errs in ignoring the way the state may exercise its authority to *indirectly* influence the understanding by compelling exposure to arguments capable of convincing them to endorse the official faith. “The effect of such threats,” Waldron continues, “may be to increase the number of people who eventually end up believing the orthodox faith.”<sup>182</sup> Since the exercise of political authority could in principle play an important albeit indirect role in facilitating conversion to the official religion, Waldron concludes that coercion in religious matters is not always irrational, and therefore is not always unjustifiable.

Insofar as we acknowledge any epistemic relationship between religious tradition and religious belief, we are obliged to agree with Waldron that it is at least possible for political coercion in forcibly focusing the attention of citizens on the most persuasive theological arguments to play an indirect, causal role in the adoption or transformation of religious belief. Waldron concludes that the above concession renders a fatal blow to

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<sup>180</sup> Jeremy Waldron, “Toleration and the Rationality of Persecution,” in *John Locke: A Letter Concerning Toleration in Focus*, eds. John Horton and Susan Mendus (London: Routledge, 1991), 117.

<sup>181</sup> *Ibid.*, 116.

<sup>182</sup> *Ibid.*

Locke's argument and its aspiration to demonstrate the logical impossibility that political coercion could have an effective role to play in religious belief-formation.

Susan Mendus has argued against what she calls Waldron's "pretension to completeness."<sup>183</sup> On her view, Waldron is right to emphasize the bare possibility that political coercion could indirectly influence faith, but he fails to note the way in which the nature of religious belief frustrates attempts to realize religious orthodoxy through the imposition of state authority. For instance, the state may easily promote healthier eating habits by subsidizing whole-grain bread. But religious beliefs, Mendus argues, are not like dietary preferences. In contrast to mere preferences, religious beliefs "inform and guide virtually everything a believer does"—so much so that the state will have to dismantle all aspects of a citizen's life if it hopes to eradicate or transform religious belief.<sup>184</sup> Mendus concludes that Waldron's argument may be logically correct, but he nevertheless fails to appreciate the factors that can make state enforcement of religious orthodoxy an irrational exercise of political authority.

Like Mendus, I recognize the logical possibility that exposure to religious tradition—even when compelled—could influence religious belief-formation. And like her—although for different reasons—I recognize the possible irrationality of subjecting religious faith to political authority. Given my first concession above, however, I cannot prove that *all attempts in all circumstances* to indirectly compel religious faith will prove self-defeating, but only that there are strong reasons to believe that the exercise of political authority is very unlikely to bring about its intended religious effects.

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<sup>183</sup> Susan Mendus, "Locke: Toleration, Morality and Rationality," in *John Locke: A Letter Concerning Toleration in Focus*, eds. John Horton and Susan Mendus (London: Routledge, 1991), 152.

<sup>184</sup> *Ibid.*, 155.

To be clear, the structure of my response is not that state enforcement of religious orthodoxy is unjustifiable because such enforcement will prove very difficult to achieve. It simply doesn't follow that because something is very difficult to achieve it is therefore wrong to do it. Instead, my strategy is to specify the psychological and epistemic conditions in which compelling religious faith would prove irrational, and then suggest that these conditions are so widespread and intractable that they support a very strong—but not, in principle, indefeasible—moral presumption against the exercise of political authority in religious matters. I readily concede that Waldron's objection has succeeded in altering the playing field for advocates of the Lockean approach insofar as the argument I am about to offer no longer aspires to demonstrate the logical impossibility that the state could play an effective role in coercing religious faith. Nonetheless, my argument aims to provide reasons to think that under common psychological and epistemic conditions the compulsion of religious orthodoxy—whether through direct or indirect means—is irrational, and therefore beyond the proper scope of political authority.

My argument consists of two claims. First, I claim that compelling citizens to engage theological arguments provokes a degree of resentment that undermines the persuasiveness of the arguments in question. Second, I argue that this resentment proves especially problematic given the extent to which Waldron wrongly depicts religious commitment as entirely a matter of rational warrant.

Theological beliefs have some unique properties. As Susan Mendus has pointed out, they have a kind of comprehensive reach and ultimate importance distinct from other

kinds of belief. In short, people take their religious commitments seriously.<sup>185</sup> When the state commands citizens to engage theological arguments in support of the official religion—with the overhanging threat of penal sanctions if they disobey—it cannot avoid provoking resentment among citizens who hold theological beliefs to the contrary. This resentment does not dispose a citizen to regard theological arguments in support of the official religion with any genuine interest and sympathy. This lack of genuine interest and sympathy ultimately undermines the possibility the arguments in question will persuade citizens to endorse the official faith.<sup>186</sup>

Of course, one may object that subjective interest and sympathy is not always a precondition to being persuaded. Take the case of Margaret, who believes that the Pythagorean theorem is false. And let's assume that compelling Margaret to engage valid proofs of the theorem provokes in her—for whatever reason—a heightened degree of resentment. In other words, she is not psychologically disposed to believe the proof she is about to witness. But if she is able to grasp the meaning of the proof at all, she will have to admit that it necessarily establishes that the sum of the squares of two adjacent legs of a right triangle is equal to the square of its hypotenuse. In this case, her resentment at being compelled to engage the proof ultimately proves irrelevant as to whether or not she is willing to endorse the truth of the Pythagorean theorem. Such is the nature of mathematical truth: its epistemic foundations are entirely rational.

A deep assumption at the heart of Waldron's objection is that the process by which an individual decides to renounce to endorse religious commitments is just like the

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<sup>185</sup> "Theological commitments" include not just traditional religious beliefs and values but also agnostic and atheistic beliefs and values. Whether one believes in God or not, the relevant point is that one tends to care about the truth of one's beliefs when it comes to religion.

<sup>186</sup> The present claim is a psychological one about the likelihood that one will find certain arguments persuasive, and not an epistemic one about whether such arguments are in fact sound.

process by which Margaret endorses the Pythagorean theorem. On his view, we endorse certain religious beliefs purely on rational grounds, and revise them when confronted with better arguments.<sup>187</sup> Waldron posits the existence of “books and catechisms, gospels and treatises, capable of instructing men in the path of the true religion, *if only they will read them*” [emphasis mine]. He assumes that there are theological arguments that cannot fail to bring about genuine religious conversion, no matter the psychological circumstances in which they are encountered. In this way, he treats religious conviction as if the development of faith were akin to the development of mathematical knowledge. The formation and revision of religious commitment remains entirely a matter of rational warrant.

The resentment of citizens commanded to engage theological arguments in favor of the official religion becomes especially problematic once we reject Waldron’s overly intellectualized conception of religion, in which religious commitments are thought to depend entirely on rational warrant. But religious beliefs are not like mathematical beliefs, and therefore are not necessarily susceptible to rational revision in all circumstances.<sup>188</sup> There are essential, nonrational components to religious commitment that the appeal to pure reason cannot touch. And the resentment of citizens throws up a psychological barrier that undermines the possibility that they will find their coerced encounter with theological arguments to offer persuasive reasons to convert to the official religion. At its best, compelling citizens to engage competing theological arguments may leave their intellect impressed, but their spirit unmoved; at its worst, compelling citizens

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<sup>187</sup> It may be that Waldron merely imports an assumption Locke makes in his argument for toleration. On Locke’s view, it is precisely because the foundation of religious commitment is a kind of rational understanding immune to compulsion that the state ought to refrain from compelling faith.

<sup>188</sup> This is not to assume some sort of fideism in which rational arguments have no place in our conception of faith, but only that faith is not sensitive to the demands of reason alone.

may leave them more resistant to the official faith than ever before. In any case, the state is well advised to pursue its desire for religious orthodoxy through noncoercive means.

The psychological effect that compelled religiosity can have on the formation of genuine faith also deflects the additional objection that the true aim of compelled participation in religious tradition is not to secure the present generation's faith, but rather the faith of subsequent generations.<sup>189</sup> On this view, the exercise of political authority in religious matters may succeed in establishing the social conditions by which the minds of future generations are shaped and ultimately won. In response, we should note that subsequent generations do not experience the official religion without the mediating influence of the family. Given the argument above, there is little reason to believe that parents who have been compelled to engage competing theological arguments are likely to transmit the official religion to their children with any degree of enthusiasm. The imposition of political authority on matters of faith is bound to "poison the well" for present as well as future generations.

I have tried to respond to Waldron's objection that because Locke's argument ignores the possibility of indirectly compelling religious orthodoxy, it therefore fails to establish that the subjection of religious faith to political authority is in principle unjustifiable. In response to Waldron, I have tried to specify the psychological and epistemic conditions that I believe render indirect religious compulsion an irrational and ultimately unjustifiable means to promote religious orthodoxy. My hope all along has been to rehabilitate Locke's argument in favor of religious toleration so that it can be

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<sup>189</sup> I am grateful to Charles Larmore for pressing this objection.

profitably applied to the question as to whether parents may compel the faith of their children.

### *Toleration and the Scope of Parental Authority*

I believe that Locke's argument in favor of religious toleration has profound implications for how we understand the scope of parental authority. To grasp its significance, we first need to articulate the distinctive nature of the commitments on which Locke's argument depends. Second, we need to show that Locke's argument can be applied to a wider range of secular commitments than is generally appreciated. Third, we need to defend the relevance of Locke's argument to the scope of parental authority. Lastly, we need to demonstrate how the logical implications of Locke's argument ultimately constrain the scope of parental authority.

Locke's argument focuses on a certain type of commitment—specifically, religious commitment—that he believes is essential to the good life. Let's call these kinds of commitments “existential commitments,” since they bear on whether one achieves a flourishing existence. In addition, Locke's argument assumes that there are commitments the existential value of which depends on one seeing for oneself the reasons one has to endorse them. Let's call this type of commitment a “constitutive commitment,” because the inner rational conviction of its holder is a necessary condition of its existential value.<sup>190</sup> Thus, one who endorses a commitment that is by nature constitutive without

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<sup>190</sup> I should emphasize that seeing the reasons one has for endorsing an existential commitment may prove a necessary condition for living well, but it is unfortunately not sufficient. One could be rationally persuaded that a certain constitutive commitment is true, and yet fail to live well if that commitment turns out to be false. The important idea is that regardless of the ultimate truth or falsity of a constitutive commitment, it is necessary that one see for him- or herself the reasons for its purported existential value. A full accounting of true constitutive commitments is a tall task, and happily is not one that the present conceptual analysis requires.

seeing for oneself the role it plays in a life well lived undermines its existential value. In this case, neither the holder of the commitment in question nor anyone else with a stake in his or her living well stands to benefit.

Locke, of course, emphasizes religious commitments as the paradigmatic example of what I have called constitutive commitments. I think, however, that when we reflect on the sorts of matters that bear on the good life, we find that a wide range of existential commitments—religious, moral, and aesthetic—turns out to be constitutive. The test for whether an existential commitment is constitutive is straightforward: simply imagine someone enacting the existential commitment in question without grasping the reasons as to why the commitment is existentially valuable—perhaps they have been compelled, or as a response to social pressure—and then ask whether under such conditions the commitment can still play an essential role in securing a life well lived.<sup>191</sup>

For example, imagine a child, Wayne, who regularly attends Jewish religious services, volunteers at a soup kitchen, and participates in countercultural, “hippie” culture. Upon inspection, however, Wayne’s apparent religious, moral, and aesthetic commitments are merely the result of a desire to please his parents, and not the product of any rational deliberation about the role these activities play in a life well lived. In this case, is there any reason to believe that Wayne will live well? Without endorsing the value of these activities on his own terms, I think there is little reason to conclude that Wayne stands to benefit from commitments that he imitates rather than genuinely adopts.

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<sup>191</sup> There are some instances of religious traditions apparently recognizing the value of religious commitments absent what Locke calls the “inward and full persuasion of the mind.” For example, traditional Jewish rabbis have taught that a Jew who is compelled to comply with certain ritual commandments—for example, eating matzoh on Passover—has obeyed the commandment. Nevertheless, the rabbis have generally defended the emphasis on performance over conviction on educational grounds. As they are wont to say, “First one does, and then one understands.” Even in this case, the value of complying with divine commands ultimately transcends mere external performance.

Ultimately, what this example suggests is that most existential commitments—whether religious, moral, or aesthetic—prove to be constitutive simply because the concept of a flourishing life seems to presume a certain orientation of the mind, and not just external conformity to existential norms. Living well is ultimately a matter of both external compliance and inner rational conviction.<sup>192</sup>

Given the applicability of Locke's argument for religious toleration to a wide range of existential commitments, one could, nevertheless, deny that Locke's argument is relevant to the question of parental authority. Locke's argument in favor of religious toleration presumes the capacity of individual citizens to respond to reason in matters of religion. One may reasonably doubt that children have the requisite rational capacity necessary to get Locke's argument off the ground, especially since the justification of their initial subjection to parental authority is based on their rational deficiency.

If it can be shown that Locke's argument for religious toleration presumes a level of rational capacity that transcends that of children, it would then follow that Locke's argument has nothing to teach us about parental authority, since it would only apply to individuals who already qualify as ordinary adults. To be sure, Locke's argument clearly depends on the capacity of individuals to respond to reasons when it comes to constitutive commitments. Nevertheless, what reason is there to think that this capacity is so sophisticated that it could not be possessed without necessarily meeting the threshold conditions for basic moral equality?

The above objection challenges us to distinguish between the rational capacity necessary for Locke's argument to gain traction and the rational capacity that

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<sup>192</sup> It is difficult to specify how prevalent constitutive commitments are among all the commitments that bear on living a good life. Suffice it to say, I believe constitutive commitments are prevalent enough to support an argument for a general immunity from authority in religious, moral, and aesthetic matters.

emancipates children from the authority of their parents. Locke's argument for religious toleration applies to any individual capable of responding to reasons when it comes to judging constitutive commitments. Basic moral equality requires the capacity to respond to reasons when it comes to apprehending and complying with the law of nature. Responsiveness to reasons is clearly operative in both cases, but there is nothing in Locke's argument that forecloses the possibility that children may respond to reason when it comes to religious commitments without necessarily developing the rational capacity to comply with the law of nature. Indeed, Locke's argument is applicable to any individual responsive to reasons in religious matters without any regard for how sophisticated or advanced this responsiveness must be. In contrast, basic moral equality assumes not just bare responsiveness to reasons in moral and political matters, but some degree of sophistication and competence in responding to the reasons we have to respect the natural moral rights of others. This distinction is entirely consistent with my earlier argument that basic moral equality depends on surprisingly modest rational capacities. All I am here emphasizing is that Locke's argument for religious toleration plausibly applies to individuals capable of responding to reason in religious matters, but not yet entitled to basic moral equality.

So far I have argued that Locke's argument for religious toleration applies to a wide range of constitutive commitments, and that it is relevant to the question of parental authority. Our last task is to trace the implications of Locke's argument for how we understand the scope of parental authority. The application of Locke's argument to the question of parental authority generates the view that parents are not morally permitted to command their children in religious, moral, or aesthetic matters regarding constitutive

commitments, and children are not morally obligated to obey such commands. Parents may certainly attempt to rationally persuade their children to adopt their preferred constitutive commitments, but the powers of commandment and chastisement are not permissible means to secure their compliance. To think otherwise is to ignore the qualitative difference between goods that can be secured through mere performance and goods the value of which depends on free and rational endorsement. As with political authority, parental authority is limited to those areas of life in which its exercise is appropriate to the nature of the goods it aims to realize.

In the previous section, I offered a response to Waldron's objection that because religious orthodoxy could be indirectly realized by compelling participation in religious tradition, Locke's argument does not establish that the subjection of faith to political authority is in principle irrational. My response was first to concede the logical possibility of indirectly compelling religious faith, and then to argue on largely psychological grounds that the nature of religious faith is fundamentally ill suited to the distinctive powers of the state. What are the implications of Waldron's objection and my response for how we understand the proper scope of parental authority?

In responding to Waldron, I emphasized the resentment that citizens would feel if they were compelled to participate in a competing religious tradition. My appeal to the idea of resentment depends on citizens already holding religious beliefs that conflict with the official religion. When we turn to the case of children, we realize that children are not born with theological beliefs, but rather must acquire them. Consequently, there is no reason to believe that children will especially resent early attempts by their parents to

impose a religious tradition upon them by commanding them to be baptized, go to church, or attend Sunday school.

But if a child comes to hold religious beliefs that conflict with their parents, all the considerations introduced in my reply to Waldron are relevant. Children's resentment at being compelled to engage a competing religious tradition will render it irrational for parents to try to alter their children's beliefs through coercive means. The end result is a window of time in which children are the kinds of moral agents appropriately subject to parental authority, and yet without the sorts of theological commitments that can breed resentment when one is compelled to participate in a competing religious tradition. This window of time represents the limited opportunity parents have to compel their children to participate in their religious tradition without having to worry about the morality of subjecting their children's religious lives to parental authority. Beyond this window, however, there remains a moral presumption against the imposition of parental authority regarding the faith of their children.

Parental liberalism adopts the view that that the scope of parental authority does not generally extend to constitutive commitments. Nevertheless, a number of important qualifications are in order. First, one should realize that the parental liberal is always permitted to expose his or her child to the family's religious traditions and values. By "expose," I mean to say that parents do nothing wrong in displaying and advocating their own religious commitments to their children, and attempting to engage their children in a discussion of religious truth and values. Parental liberalism does not depend on some conception of autonomy as a fantasy of perfect, unconditioned freedom. All of us are born into families and communities with distinct histories and cultures, and children are

inevitably raised in an environment that inescapably conditions the sorts of choices they will have in their life. As a matter of fact, there is a strong probability that children will eventually endorse at least some of their parent's constitutive commitments, and there is nothing objectionable in this from the point of view of the parental liberal. All the parental liberal insists is that once children develop their own religious, moral, and aesthetic commitments, they are no longer properly subject to the exercise of that authority in matters regarding constitutive commitments.

Second, parental liberalism recognizes that parents may command their children in all matters that do not involve constitutive commitments. For instance, parents may command their children to study the violin or play soccer on the assumption that the value of such activities do not depend on their being freely and rationally chosen. In this way, the parental liberal acknowledges that parental authority may transcend the most basic obligation of care and nourishment. Nevertheless, the authority of parents may not generally extend to constitutive commitments that plausibly contribute to a flourishing life.

At this point, one might object that parental liberalism goes too far in divorcing the practice of parenting from realizing the virtue and happiness of children. A parent, it would seem, is absolutely entitled to do what they can to ensure that their children grow up to live good, happy lives, and not just the minimally decent lives that secure their immunity from nonconsensual coercion. To think otherwise is to justify a regime of child rearing in which children are left to fend for themselves when it comes to the most important questions human beings need to address if they hope to live well.

The parental liberal happily agrees. The aim of parenting—but not parental authority—is to raise children who are capable of living well, and not just living a minimally decent life. In this way, parenting is properly ambitious in its aspirations. What the parental liberal denies is that parents may pursue these aspirations through the unlimited exercise of the moral powers of commandment and chastisement over their children. The aim of parenting may be to secure the virtue and happiness of children, but the scope of parental authority generally remains limited to those matters that do not involve constitutive commitments. Parents may and should rationally persuade their children when it comes to the endorsement of constitutive commitments, but they may not command them in these matters, because the exercise of parental authority tends to undermine the conditions that make these commitments valuable.

In this chapter, I have argued that thinking about parental authority in the light of Locke's political ideals yields a conception of parental authority that I have labeled "parental liberalism." Parental liberalism emerges as the name for three associated views. It is first a view about the moral primacy of the individual child, and the obligation of parents to treat each individual child according to their rational and psychological capacities. Second, parental liberalism endorses the view that the duration of parental authority is far more limited than we generally believe. Third, the parental liberal argues that the scope of parental authority is limited to those matters that do not involve constitutive commitments. In the next and final chapter, I turn the methodology of this chapter on its head, and ask what parental authority can teach us about the nature of political authority.

## ***Chapter 6: Parental Authority and the Problem of Political Obligation***

In the previous chapter, I argued that reconciling parental authority with Lockean politics generates a revised conception of parental authority that I call “parental liberalism.” The parental liberal believes that the duration and scope of parental authority is more limited and narrow than is generally believed. In this final chapter, I turn the methodology of the previous chapter on its head, and explore what we can learn about the nature of political authority when we examine it in the light of our most plausible conception of parental authority. I try to show that reviving the conceptual relationship between parental and political authority helps us address perennial problems regarding the moral foundations of political obligation. My thesis is that parental liberalism as an example of limited, nonconsensual authority can bolster an alternative to the prevalent but problematic view that political authority fundamentally rests on the consent of the governed.

### ***Varieties of Voluntarism***

When we grapple with the question of the moral foundations of political authority, we are asking what considerations, if any, could justify our general moral obligation to obey and support the laws and institutions of the state. Contemporary philosophical discussions regarding the moral foundations of political authority generally revolve around various versions of voluntarism. For the purposes of this discussion, I will define “voluntarism” as the view that the authority of laws and political institutions is founded on the consent of those subject to them. In other words, no citizen is morally obligated to comply with the law or support political institutions unless he or she has

agreed to do so. This definition, however, raises as many questions as it answers regarding the most plausible voluntarist account. Accordingly, I think it necessary to begin by making a number of important but admittedly well-worn distinctions regarding the varieties of voluntarism with an eye toward identifying the most promising version.

The first major distinction among varieties of voluntarism is whether the consent in question is personal or historical. Historical consent theories posit that one's political obligations are grounded not in one's "personal" agreement, but rather in the agreement of an earlier or original generation of contractors. Of course, it is very difficult to see how one could be bound to political obedience on the grounds that one's ancestors agreed to such obedience. It is not impossible for an individual to be morally bound by the agreements of another, but one must authorize beforehand that another person's consent will prove morally binding for him or her as well. Unless we affirm the efficacy of séances, it is impossible that one could have personally authorized a much earlier generation to consent on his or her behalf. In this sense, the moral force of historical consent theories ultimately reduces to personal consent theories, but without the possibility that personal consent could ever have been given. Thus, we have reason to summarily dismiss historical accounts of consent theory.<sup>193</sup>

Within the remaining categories of personal consent theory, there are two main competitors: actual consent versus hypothetical consent. Hypothetical consent theories posit that one's political obligations arise from what one would have had reason to agree to given the demands of rationality or prudence in certain circumstances. The question for hypothetical consent theorists is whether considerations about what we would have

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<sup>193</sup> From here on, any reference to consent theory should be taken to refer to personal consent theory.

reason to agree to are able to generate actual and not just hypothetical political obligations. Ronald Dworkin has memorably argued that “hypothetical contracts do not supply an independent argument for the fairness of enforcing their terms.” On his view, a “hypothetical contract is not simply a pale form of an actual contract; it is no contract at all.”<sup>194</sup> I am inclined to agree with Dworkin’s dismissal of hypothetical consent theories on the suspicion that the reasons we would agree to comply and support the laws and political institutions of a regime—for example, enlightened self-interest, a sense of fairness, etc.—are doing the actual moral work in generating political obligation. The appeal to “consent” on my view is idle, and perhaps best understood as a way to sell what is ultimately a nonconsensual account of political obligation in the compelling language and metaphors of voluntarism. It would be better to jettison the unconvincing appeal to consent, and instead explore ways in which we may be obligated to obey commands, regardless of whether we would agree to their authority or not.

So far we are left with personal, actual consent theories as the remaining candidates for a defensible voluntarism. The next and critical distinction regards whether one’s actual consent is express or tacit. Express consent theories posit political obligation as the consequence of an individual deliberately and freely agreeing to obey the commands of the state. In practice, however, such an account proves to be of little explanatory value. Under current social and political conditions, very few citizens in any given territory are ever in a position to give their express consent to obey and support the law and political institutions of the land. Only naturalized citizens making the deliberate choice to surrender previous political bonds are asked to explicitly express their

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<sup>194</sup> Ronald Dworkin, “The Original Position,” in *Reading Rawls: Critical Studies on Rawls’ ‘A Theory of Justice’*, ed. Norman Daniels (New York: Basic Books, 1975), 17.

agreement to comply with new ones. The vast majority of us are born into political societies that provide no analogous opportunity. The result is that express consent theory fails to explain how the political obligations of anyone, save a relatively small minority of naturalized citizens, may arise.

The last remaining contender for a respectable voluntarism is tacit consent. On this view, consent may be generated in valid choice-situations by simply not expressly refusing to give consent.<sup>195</sup> There is nothing particularly mysterious or puzzling about this conception of consent. For instance, imagine I am teaching a class, and I ask if anyone minds if we run five minutes long. By not raising a hand or voicing an objection, all have tacitly consented to the proposal. Obviously, there would need to be a reasonable interval in order for any possible dissent to emerge, and student dissent must not be penalized to any extent other than the obvious loss of additional instructional time. In such a situation in which students retain the ability to make a deliberate and free choice between two options, neither of which excessively impair their interests—the criteria of a valid choice-situation—their inaction and silence is their agreement to delay lunch for a few minutes.<sup>196</sup>

Tacit consent theory is attractive in its suggestion that political obligation need not depend on citizens personally and expressly giving their consent. It thus promises to

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<sup>195</sup> As will soon become clear, a “valid choice-situation” is one in which an individual may choose between multiple courses of action or states of affairs where at least two of which do not impose consequences too detrimental to the interests of the individual. It is helpful to recall that the distinction between valid and invalid choice-situations directly conflicts with Hobbes’s view that all situations in which one is confronted with a choice—no matter how dire the consequences of consent or dissent—are capable of generating morally binding obligations.

<sup>196</sup> Some may be skeptical about whether free and deliberate consent can ever be generated in any asymmetrical power situation. I grant that there are situations in which an imbalance of power could nullify the moral force of consent, but the mere possibility need not lead us to discount the moral force of consent in each and every asymmetrical power situation. Whether it does or not ultimately depends on the details of the case.

explain how political obligations may arise among a much wider array of citizens—addressing the major drawback of the express consent approach. Indeed, John Locke embraces tacit consent theory as the most promising approach to the problem of political obligation. A committed voluntarist, Locke argues in the *Second Treatise* that political authority “*has its original only from compact and agreement, and the mutual consent of those who make up the community.*”<sup>197</sup> Aware of the disadvantages of express consent theory, Locke instead believes that tacit consent could establish political obligations on a sufficiently wide scale. This is not to say that Locke was insensitive to the shortcomings of tacit consent theory. He writes that while no one doubts whether express consent renders an individual a “perfect member” of political society, there is considerable controversy regarding “what ought to be looked upon as *tacit consent*, and how far it binds” an individual to political obedience.<sup>198</sup>

And yet Locke advocates a highly problematic view as to what constitutes tacit consent. For Locke, tacit consent is given when anyone enjoys the benefits of government. “[E]very man,” he writes, “that hath any possessions or enjoyment, of any part of the dominions of government, doth thereby give his *tacit consent*, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it.”<sup>199</sup> And just to sweep aside any lingering ambiguity, Locke makes clear that his account of tacit consent includes anyone who owns property, rents lodging for a short time, or travels on the highways. In effect, the account “reaches as far as the very being of any one within the territories of that government.”<sup>200</sup> There is, it would appear, no way

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<sup>197</sup> John Locke, *Second Treatise of Government*, §171, 89.

<sup>198</sup> Locke, §119, 63–64

<sup>199</sup> Ibid.

<sup>200</sup> Ibid.

for anyone residing in a territory to avoid consenting to abide by and support its laws and political institutions.

David Hume clearly sees the troubling implications of Locke's account of tacit consent. He offers a provocative objection concerning the social and economic conditions that must exist for mere residence in a territory to indicate tacit consent. Hume reminds us that tacit consent requires that the individual is able to make a deliberate and free choice in the face of a valid choice-situation. But if a valid choice-situation requires that an individual choose among multiple options at least two of which do not impose excessive burdens on the individual, then it is difficult to see how not leaving one's homeland can generally be taken to indicate tacit consent. Hume casts doubt on whether the "poor peasant or artisan" who does not emigrate is necessarily in a valid choice-situation.<sup>201</sup> The significant economic and cultural challenges involved in emigration can prove so burdensome for those who lack economic and social resources that it may fail to count as a genuine option in a valid choice-situation.

Of course, it may be possible to provide every citizen with the economic and social resources necessary to transform the decision whether to emigrate or not into a valid choice-situation.<sup>202</sup> But without such accommodations, Hume is right to argue that mere residence cannot necessarily be taken to signify consent to the regime in question.

A. John Simmons has argued that even were such economic and social resources

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<sup>201</sup> David Hume, "Of the Original Contract," in *Essays Moral, Political and Literary* by David Hume, vol. 1, eds. T.H. Green and T.H. Grose (London: Longmans, Green, and Co., 1875), 451.

<sup>202</sup> One might think that Plato's *Crito* provides evidence that fifth-century Athens provided each citizen with the economic and cultural resources that valid choice-situations require. As Plato makes clear in his dialogue, Athens permitted citizens to emigrate "without any loss of property" (See Plato, 51d-e, 45.) It may not be enough, however, to allow citizens to take their property along with them when they emigrate. Hume's objection imagines that citizens may lack property in the first place, and that their impoverishment makes emigration excessively burdensome. Valid choice-situations may require the state to provide poor citizens with property and wealth sufficient to make emigration an option without devastating consequences.

provided to every citizen, “most men will treasure home, family, and friends above all things.”<sup>203</sup> These are the sorts of things, Simmons argues, that are not easily moved or duplicated abroad. The result is that emigration even for the economically empowered and culturally informed “may very well constitute a ‘disaster,’ ” with the sorts of excessively detrimental consequences that undermine the existence of valid choice-situations. In any case, it is uncontroversial that the modern state generally fails to provide the set of conditions necessary to ensure that each and every citizen faces a valid choice-situation. And in the face of such widespread failure, Locke’s view that mere residence may be taken to signify tacit consent provides an implausible basis for a general theory of political obligation.

### ***Alternative Approaches to Political Obligation***

The failures of voluntarism to underwrite a general theory of political obligation have spurred the development of alternative approaches to the problem. Contemporary philosophers have entertained three rival, nonconsent-based theories of political obligation. In this section, I will briefly describe and evaluate the first two alternatives to voluntarism—what I’ll call the “fair play” and “gratitude” approaches—before engaging in a more sustained exploration of the third alternative, the “natural duty” approach. The emphasis here will be on showing the shortcomings of all three approaches, and assessing whether any of these approaches can be salvaged. I conclude that while the first two approaches are beyond repair, the third approach remains promising. In the next section, I

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<sup>203</sup> A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), 99.

turn to the concept of parental authority to show how we may respond to criticism of the natural duty approach to political obligation.

H.L.A. Hart and John Rawls (at least in the early years of his career) advocate a fair play approach to political obligation.<sup>204</sup> The essence of the fair play approach is the claim that given a fair scheme of social cooperation, an individual that accepts the benefits that arise from the social cooperation of others has a moral duty of “fair play” to cooperate in turn. Morality, in short, requires us to not accept the benefits of political society without shouldering our fair share of the burdens involved in producing them.<sup>205</sup>

The fair play approach attempts to address the shortcomings of voluntarism by showing how political obligations of institutional support and legal compliance need not depend on individuals deliberately consenting to the authority of government. There are cases, according to this approach, in which we are morally obligated to obey the law simply because we accept the benefits that arise from others’ willingness to restrict their liberty. The mere acceptance of benefits under the relevant conditions is sufficient to generate political obligations, regardless of whether one has reason to consent or actually consents to such obligations. Like consent theories, the fair play approach invokes the idea that political obligations arise from a voluntary acceptance of benefits. Nevertheless, it remains distinctive in its insistence that such obligations do not depend on the

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<sup>204</sup> See H.L.A. Hart, “Are There Any Natural Rights?” *Philosophical Review* 64, no. 2 (1955): 175–191, and John Rawls, “Legal Obligation and the Duty of Fair Play,” in *Law and Philosophy*, ed. Sidney Hook (New York: New York University Press, 1964). There remain some interesting discrepancies between Hart’s and Rawls’s accounts—for example, Rawls’s emphasis on a “fair” scheme of social cooperation and not just Hart’s “joint enterprise”—but there is enough in common between the two to speak intelligibly of their having a common approach.

<sup>205</sup> The fair play approach may seem to resonate with Locke’s account of tacit consent. But it should be remembered that “acceptance” of political benefits, according to the fair play theorist, entails moral obligations of obedience, but not necessarily consent to the authority of the regime. The fair play approach is motivated by a natural moral duty of reciprocity, and not the moral force of consent.

individual deliberately agreeing to support and comply with the political institutions and law of the land.

The principal problem with the fair play approach is its dependence on the idea that political obligation requires not just receiving the benefits of social cooperation but also in some sense “accepting” them. The adequacy of the fair play approach will ultimately depend on what we think is involved in “accepting” the benefits of social cooperation. The acceptance of benefits that arise from social cooperation seems to require at least that one sees the benefits as the product of social cooperation, and that one would be better off accepting them (even with their associated burdens of compliance) than refusing them, given the relevant circumstances.

The fair play approach is most plausible when we stipulate that an individual accepts the benefits of social cooperation in the sense described above. But is this idea of acceptance too demanding of individual citizens to ground a general theory of political obligation? I think so. The fair play approach assumes a level of awareness and thoughtfulness about the benefits citizens enjoy that is certainly possible, but highly uncommon.<sup>206</sup> Indeed, many citizens seem unaware of the benefits they enjoy in political society. Even if citizens are aware of these benefits, they may fail to see them as the product of social cooperation, and thus their fellow citizens as partly responsible for their existence. Lastly, even if citizens are aware of the benefits of political society, and see them as the product of social cooperation, many tend to believe that the burdens imposed by political society outweigh the value of its purported benefits. They often focus on the hardships of compulsory military service and high taxes, rather than appreciating the

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<sup>206</sup> Simmons offers a similar criticism on pages 139–141 of *Moral Principles and Political Objections*.

safety and social services such hardships produce. Whether or not an individual is correct in judging the price of political society too dear turns out to be irrelevant, since the notion of “acceptance” on which the most plausible version of the fair play approach depends is entirely subjective. In any case, it is clear that only the few citizens who prove aware of the origins of certain benefits, and judge them worth the costs of social cooperation, will have political obligations. Accordingly, we should conclude that in the absence of widespread “acceptance” of the benefits of social cooperation, the fair play approach fails to account for generalized political obligations.

An alternative to the fair play approach—what I will call the “gratitude approach”—has its contemporary champions, but is of course rooted in an ancient defense of political obligations.<sup>207</sup> In the *Crito*, Plato argues that one has a moral obligation to obey the law—even when unjust—because one owes a debt of gratitude to the state for providing all manner of social and political benefits. Plato’s argument famously invokes an analogy between parental and political authority, contending that if children have a moral obligation to obey their parents due to their provision of important benefits, all the more so do citizens have a moral obligation to obey the state due to the provision of even more important benefits.

I briefly discussed the methodological significance of Plato’s argument from analogy in chapter 1, and then more carefully evaluated the substance of Hobbes’s argument from filial gratitude in chapter 2. Contemporary thinkers who attempt to

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<sup>207</sup> See W.D. Ross, *The Right and the Good* (Oxford: Oxford University Press, 1967), 27; J.P. Plamenatz, *Consent, Freedom, and Political Obligation* (Oxford: Oxford University Press, 1968), 24; and A.D.M. Walker, “Political Obligation and the Argument from Gratitude,” *Philosophy and Public Affairs* 13, no. 3 (1988): 191–211, for three representative accounts of the gratitude approach to political obligation. A. C. Ewing advocates a theory that resonates with conventional features of the gratitude approach without ever explicitly relying on the moral duty of gratitude in his arguments. See A.C. Ewing, *The Individual, the State, and World Government* (New York: Macmillan, 1947), 218.

account for general political obligations on the basis of a moral duty of gratitude remain as vulnerable as ever to questions regarding the logical relationship between the benefits the individual receives from the state and the nature and content of the gratitude that one is then beholden to express. In short, why think that the mere receipt of benefits entails obligations of obedience to the benefactor?

The initial plausibility of the gratitude approach originates in our intuition that there are moral consequences to the receipt of benefits—even those we do not ask for or are entitled to. The unsolicited receipt of benefits—otherwise known as receiving a gift—may alter one’s moral situation. For instance, we may be morally obligated to send a thank-you card to the gift giver. Nevertheless, the formidable challenge for gratitude theorists is to explain why the obligation of gratitude must be discharged in the form of a generalized obligation to support and obey the political institutions and legal system that provides the benefits in question. We don’t ordinarily believe that receiving a gift—even one of great value—then obligates us to obey the commands of the benefactor. If we did, birthday parties would be particularly charged events.

I believe these first two approaches to the problem of political obligation—fair play and gratitude—fail to establish general moral obligations to obey the law and support political institutions. While the third remaining option—the “natural duty” approach—has its critics, I will argue that it represents the most promising alternative to voluntarism, fair play, or gratitude accounts of political obligation. Indeed, John Rawls, in his later work, came to advocate a sophisticated version of the natural duty approach.<sup>208</sup> Unlike obligation-centered accounts such as voluntarism and the fair play approach, in

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<sup>208</sup> See John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1999), 99–100 and 293–296, for Rawls’s discussion of a “natural duty of justice.”

which political obligations are the consequence of the individual's voluntary and deliberate undertaking, the natural duty approach posits that political obligations may simply befall us on the basis of moral duties that are universally binding and involuntary. Avoiding the pitfalls of voluntarism, natural duty theorists believe that the moral duties that ground political obligation do not depend on individual consent or the voluntary acceptance of benefits, but only the fact of an individual's humanity.

On Rawls's view, our moral obligation to support political institutions and comply with the law is founded on a natural duty of justice. Following the Kantian rather than the Lockean approach to political obligation, Rawls argues that much as we are beholden to natural moral duties of beneficence, we are beholden to a natural duty of justice that obligates us to support the political institutions and comply with the laws of a just regime.<sup>209</sup> Because only a just regime is capable of securing an individual's moral rights, we have a natural moral duty to support the necessary conditions for justice to flourish in this world. And once again, as a natural moral duty, our political obligations exist irrespective of any individual consent or voluntary acceptance of the benefits that arise from social cooperation.

In canvassing alternatives to the natural duty approach to political obligation, we find most accounts vulnerable to one form or another of the same problem: the theory in question does not provide a *generalized* account of political obligation. All species of voluntarism and the fair play approach fail to show how anyone other than a relatively small slice of the citizenry could be obligated to obey the law. Only the gratitude approach seems to elude this problem in arguing that political obligation is grounded on a

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<sup>209</sup> Rawls insists that we are never obligated to obey the commands of an unjust regime. See Rawls, *A Theory of Justice*, 96.

moral duty of gratitude in response to the value of the political goods the citizen enjoys. Of course, the gratitude approach has its own substantial shortcoming in that it does not follow that gratitude must take the form of political obedience, rather than alternative ways to express our thanks for the receipt of especially valuable benefits. Like the gratitude approach, natural duty accounts are attractive in their ability to explain how political obligations arise for all citizens, and not just a few. The remaining question is whether natural duty theories are vulnerable to other objections that cannot be overcome.

A. John Simmons provides just such an objection to natural duty accounts of political obligation. He writes:

My conception of the problem of political obligation . . . relates it closely to problems about citizenship; political obligation is something like the obligation to be a good citizen in a fairly minimal sense. As such, political obligation is the moral bond which ties an individual to one particular political community or set of political institutions in a special way. Now, a natural duty of justice binds me to support all just institutions, wherever they may be. It can bind me no more to one set of just political institutions than to any other.<sup>210</sup>

Simmons's conception of political obligation posits a special moral bond between the individual and a particular political regime. On this view, when it comes to delineating our political obligations, not all just regimes make an equal claim on our obedience and support. There is in principle a moral distinction between the set of all just regimes in the world and the one to which we owe special allegiance. Consequently, Simmons argues that any adequate solution to the problem of political obligation must be able to account for the particularity of our political obligations.

This "requirement of particularity," as Simmons calls it, transforms the problem of political obligation into an even more daunting challenge. Whereas most attempts to

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<sup>210</sup> Simmons, *Moral Principles and Political Objections*, 155–156

solve the problem fail to capture the generalized nature of political obligation, the particularity requirement threatens to exclude other attempts for proving *too general*. The natural duty approach, according to Simmons, ultimately falters in its inability to explain the intuition that an individual is especially obligated to support and obey one regime over and against any others. The natural duty approach thus succeeds in explaining the general nature of political obligations, but at the expense of their particularity.

What should we think of Simmons's particularity requirement? Two prominent objections—the “globalization” argument and the “cosmopolitan” argument—insist that we should simply reject the requirement, rather than attempt to satisfy it. The first objection argues that the rise of globalism has undermined the intuition that any satisfying account of political obligation must explain the particularity of its moral requirements. On this view, an increasingly globalized world reveals the particularity requirement as appropriate to an increasingly anachronistic system of autonomous nation-states. In a world more politically, economically, and culturally connected than ever before, it would seem Simmons's particularity requirement poses less and less of a problem for the natural duty approach to political obligation.

Responding to this first objection, I nevertheless believe we should take Simmons's particularity requirement seriously. Globalization is certainly a significant development that has greatly altered economic, cultural, and political realities. Globalization, however, has not yet altered the fact that nation-states still retain a sufficient measure of political autonomy to make sense of the claim that our moral bonds to one particular regime may be different from what we owe all just regimes. If we ever realize the dubious dream of world government, the particularity requirement will be

rendered irrelevant, but until that day it is clear that globalization has not yet undermined the applicability of the particularity requirement to our theories of political obligation.

Second, the cosmopolitan objection rejects the particularity requirement as a constraint on political thinking by arguing that national boundaries have no fundamental moral significance, or at best a merely derivative one. The strong version of cosmopolitanism declares that our moral obligations of political obedience and compliance are in no way influenced by national allegiances, and that we thus have an equal obligation to obey and support any and all just regimes throughout the world. It may seem that strong cosmopolitanism is unreasonably demanding, and perhaps even impossible to achieve. How can one be obligated to equally obey and support all just regimes in the world? Our time and resources are limited, not to mention the possibility that just regimes may issue conflicting laws and policies that would make an obligation of equal obedience and support impossible to discharge.<sup>211</sup>

It does not follow, however, that because there are no fundamental moral distinctions in our duties of justice on the basis of nationality that there could not then be practical reasons to focus our energy and attention on our compatriots. We may have a moral duty to feed the hungry, but it may be more efficient to start with those in our neighborhood. Of course, our national commitments are not predicated on any moral distinction among human beings regarding their proximity to us, or national membership. Instead, national commitments may merely reflect the implications of impartial, global justice in the light of a few practical considerations—not the intrinsic moral priority of

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<sup>211</sup> Simmons seems to lodge just this objection when he writes that the natural duty of justice “seems to demand far ‘too much’ of us . . . . [The natural duty of justice] specifies that we are to comply with and do our share in just institutions *wherever* they are; and this, of course, is not just an unreasonable demand, but one that might be impossible to meet.” See Simmons, *Moral Principles and Political Objections*, 153.

co-nationals.<sup>212</sup> Once we are clear about the difference between the moral foundations of strong cosmopolitanism and the most practical way to discharge our cosmopolitan duties, any objections regarding the feasibility of the strong cosmopolitan can be defused.

An alternate objection to strong cosmopolitanism proves more successful. The idea that we have no special duties of justice to co-nationals misses the moral importance of national allegiance in our lives. Rejecting strong cosmopolitanism, Kok-Chor Tan writes:

If the cosmopolitan idea of justice is to have any appeal for human beings, it must acknowledge the local attachments and commitments people have that are characteristic of most meaningful and rewarding human lives. Among the special ties and commitments that people share are those of nationality.<sup>213</sup>

On Tan's view, the "special ties and commitments" people share with their compatriots are not just the residue of a regressive nationalism. To the contrary, they are key ingredients in "most meaningful and rewarding human lives." Any cosmopolitan account of justice, he argues, that fails to acknowledge the moral importance of local commitments—and not just their practical convenience—ought to be rejected out of hand.

The problem is not necessarily cosmopolitanism, Tan argues, but simply the strong version that eschews in principle the possibility that local commitments could have any intrinsic moral value. The challenge then for those sympathetic to cosmopolitanism is to articulate an alternate conception of cosmopolitan justice—what I call "weak

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<sup>212</sup> Robert Goodin appreciates the impact that practical considerations can have on the exercise of global duties of justice, as well as the extreme circumstances of global inequality in which considerations of local efficiency may pale in comparison to the needs of those in impoverished countries. See Robert E. Goodin, "What is So Special About Our Fellow Countrymen?" *Ethics* 98, no. 4 (1988): 663–686.

<sup>213</sup> Kok-Chor Tan, "The Demands of Justice and National Allegiances," in *The Political Philosophy of Cosmopolitanism*, eds. Gillian Brock and Harry Brighouse (Cambridge: Cambridge University Press, 2005), 164.

cosmopolitanism.” The weak cosmopolitan attempts to “accommodate and account for [the moral importance of] national allegiances *without* compromising their motivating and fundamental commitment to global equality.”<sup>214</sup> Defending his own weak cosmopolitan view, Tan goes on to argue that there is room for the intrinsic moral importance of national allegiances in a properly cosmopolitan account so long as they are ultimately subordinate to the dictates of impartial, global justice.<sup>215</sup>

For the purposes of the present discussion, the details of Tan’s account are unimportant. All we need to realize is that any attempt to reconcile cosmopolitanism with the moral value of national allegiances is bound to leave some version of Simmons’s particularity requirement intact. The force of the particularity requirement applies to the weak cosmopolitan view that we have humanitarian duties in addition to our duties to our fellow citizens. Even if one were to believe that our global duties ultimately take priority over our national duties, as Tan does, one would still be on the hook to explain the role that moral duties to compatriots play in a weak cosmopolitan account of political obligation. And to do that would be to acknowledge the force of the particularity requirement.

In short, it is a mistake to assume that the particularity requirement is inconsistent with the most compelling characteristic of cosmopolitan accounts: moral universalism.<sup>216</sup> The idea that all human beings are moral equals is entirely consistent with the claim that we have differentiated moral duties of obedience and support on the national and global

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<sup>214</sup> Ibid.

<sup>215</sup> Ibid, 169.

<sup>216</sup> I have no argument to prove that strong cosmopolitanism is conceptually incoherent or practically impossible. It seems to me that the dispute between strong and weak cosmopolitanism ultimately comes down to a difference of moral intuition. My comments here are simply meant to suggest that weak cosmopolitanism can incorporate the moral universalism that I believe underlies the intuitive attraction of strong cosmopolitanism.

levels. There is nothing in the concept of the particularity requirement that requires us to weigh in any final sense the moral interests of our compatriots over the moral interests of all human beings. Indeed, contemporary cosmopolitan accounts have taken up the challenge of showing how national allegiances need not presume a parochial morality that denies the existence of moral duties of aid or benevolence to human beings outside the borders of one's homeland. In the end, I think the most plausible version of the cosmopolitan objection to the particularity requirement can be absorbed and ultimately sidestepped. The particularity requirement, as a constraint on any full and satisfying account of political obligation, remains.

### ***The Threat of Philosophical Anarchism***

So far I have recounted the formidable problems with voluntarism and its most prominent alternatives. Some writers despairing of any attempt to respond to these problems have embraced philosophical anarchism as the most reasonable reaction to the problem of political obligation. Philosophical anarchists believe that the best solution to the problem of political obligation is simply to deny that political obligations can be reconciled with our most fundamental moral rights. On their view, there are no generalized political obligations of support and compliance to any political regime anywhere.<sup>217</sup> Robert Paul Wolff, for example, concludes that because no "viable form of political association . . . will harmonize the moral autonomy of the individual with the legitimate authority of the state," we should "embrace philosophical anarchism and treat *all* governments as non-legitimate bodies whose commands must be judged and

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<sup>217</sup> Note the difference between the strong cosmopolitan who denies the existence of particular political obligations, and the anarchist who denies the existence of political obligations altogether.

evaluated in each instance before they are obeyed.”<sup>218</sup> For Wolff, the moral foundations of political authority are nothing else than the binding force of individual moral imperatives that may or may not resonate with the law of the land. In any case, the philosophical anarchist believes that the simple fact that the law *is the law* carries no independent moral weight.

John Simmons also concludes that “political theory cannot offer a convincing general account of our political bonds.”<sup>219</sup> On his view, citizens “generally have no special political bonds which require that they obey and support the governments of their countries of residence.”<sup>220</sup> Simmons tries to cushion the blow of his own anarchism by noting that general disobedience of the law does not follow from an honest appraisal of the failings of competing accounts of political obligation. “Even in the absence of political obligations,” he argues, there are “still strong reasons for supporting at least certain types of governments and for obeying the law.”<sup>221</sup> Nevertheless, the reason to obey a law is primarily self-interest, according to Simmons, and not the alleged independent moral weight we mistakenly ascribe to the state’s commands and institutions.

My brief discussion of philosophical anarchism is meant to suggest that there is much at stake in whether we can salvage any of the approaches to political obligation already mentioned. The problem of political obligation is a fundamental problem of political philosophy, and a failure to reconcile the authority of the state with our natural liberty threatens to undermine all subsequent reflections on other pressing issues in

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<sup>218</sup> Robert Paul Wolff, *In Defense of Anarchism* (Berkeley: University of California Press, 1998), 69, 71.

<sup>219</sup> Simmons, *Moral Principles and Political Objections*, 192.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid., 193.

political theory such as distributive justice, just war theory, democratic theory, etc.

Staving off the anarchist threat, I argue that the natural duty approach can be defended as the most promising account of political obligation. Of course, the ultimate question is whether the natural duty approach can account for the intuition that we owe special obligations of support and compliance to a particular regime. The rest of this chapter is an attempt to say why I think it can.

### ***Filial Obedience as a Natural Duty***

My contention is that parental authority can serve as a heuristic, helping us to explain how a natural duty approach to political obligation can meet the challenge of the particularity requirement. In chapter 3, I explicated John Locke's argument against the conceptual relevance of parental authority in answering questions about political authority. On Locke's view, parental and political authority are perfectly distinct in that political authority is entirely a matter of consent while parental authority is an authority that originates in the moral power of the natural law. But if we can articulate a defensible account of political authority founded on a natural moral duty, then Locke's insistence on segregating questions of parental authority from political authority begins to look unreasonable.

Indeed, once we consider alternatives to Locke's voluntarist account of political obligation, we immediately notice that if such a thing as political authority exists, it shares an important characteristic with parental authority: both forms of authority can simply befall us without any deliberate undertaking or agreement on our part. The way in which we are born into families is not so different from the way we enter into political society. In neither case does our subjection to authority relations depend on our initial

consent. John Simmons remarks that while some kinds of authority may be “easy to avoid,” our subjection to parental and political authority seems “virtually inevitable.”<sup>222</sup> In contrast to consent theorists, Rawls has referred to political society as “closed” in the sense that “we come to be within it and we do not, and indeed cannot, enter or leave it voluntarily.”<sup>223</sup> The important insight is that Locke’s philosophical segregation between parental and political authority is most plausible when we uncritically accept his voluntarist presumptions. Once we entertain the plausibility of a natural duty approach to political obligation, we no longer see any immediate reason why the moral foundations of parental authority could not be relevant to our understanding of the moral foundations of political authority.

Let’s begin by noticing that the particularity problem that Simmons identifies with the natural duty approach to political obligation has its logical counterpart in the family. In the same way that we can challenge the natural duty political theorist to explain the special political ties between a citizen and a particular regime, we can challenge the parental liberal to reconcile the claim that parental authority rests on a natural moral duty with the strong intuition that children have special moral obligations of obedience to particular adults—that is, their parents.<sup>224</sup> If we can make progress on the parental question, we may find it helpful in providing a guide as to how we should think about the particularity requirement when it comes to the political question.

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<sup>222</sup> A. John Simmons, “Authority,” in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, forthcoming in July 2012).

<sup>223</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 136.

<sup>224</sup> It is important to note that “parents” in this formulation need not refer to parenting in the biological sense. Parental liberalism endorses the Lockean view that parental authority is founded on the discharge of parental duties of care, and not biological lineage.

In line with Locke, parental liberalism sees the moral foundations of parental authority as resting on a natural moral duty.<sup>225</sup> It's clear that parental authority couldn't be exclusively a matter of consent, so long as we believe that children are subject to parental authority even before they are able to develop the moral and cognitive faculties that morally binding consent presupposes. But what exactly is the natural moral duty on which parental authority rests? Adopting Locke's approach, the moral power to command children is grounded in the parent's natural moral duty of care for the child's physical, cognitive, and moral development.<sup>226</sup> The parental liberal believes that insofar as parents discharge their natural moral duty of care, children are morally obligated to obey their commands.

The child's obligation to obey his or her parents—that is, the obligation of filial obedience—is itself a natural moral duty grounded in the law of nature and its imperative of self-preservation.<sup>227</sup> Accordingly, the parental liberal assumes that children subject to parental authority have developed the moral and cognitive faculties necessary to recognize the relationship between filial obedience and their self-preservation, but not yet the full measure of moral and cognitive faculties necessary to stake a claim to basic moral equality.

Filial obedience grounded in a natural moral duty of self-preservation seems no less general than the natural moral duty of justice that Rawls sees as the moral foundation of political obedience. Without further qualification, it would seem that a child has an equal moral duty to obey *any* ordinary adult whose commands accord with the law of

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<sup>225</sup> Locke, *Second Treatise*, §170, 88–89.

<sup>226</sup> I explain how Locke establishes the moral foundations of this natural duty of care in chapter 3.

<sup>227</sup> I mean to invoke “self-preservation” as a standard of life somewhere between mere biological survival and flourishing. As discussed in chapter 1, the notion of self-preservation is meant to resonate with what I have called a “minimally decent life.”

nature. Consequently, the natural duty approach to filial obedience does not obviously account for the deep intuition that children have special obligations of obedience to particular adults (i.e., their parents). The natural duty conception of filial obedience is thus ultimately subject to the same challenge that besets the natural duty conception of political obligation: the particularity requirement. My argument is that it's possible to explain how the moral duty of filial obedience could generate special obligations of obedience to one's parents. Moreover, I believe that the reconciliation of natural moral duty with particularity in the family can help us resolve the alleged deficiency of natural duty accounts when it comes to the state.

In order to explain how a natural duty approach to parental authority can account for the particularity of child-parent relations, consider the following case: it's Thanksgiving, and I've invited a bunch of people over to indulge in the festive dinner. Among the guests is my friend, Frank. Frank is a good person, and his heart is in the right place, but he can also be quite a know-it-all. The night wears on, and I decide my child should make his way up to bed, so I say, "Abe, it's your bedtime; go to sleep." At this moment, Frank butts in. "Oh, relax. It's a holiday," he says, and then, turning to my son says: "Abe, don't go to sleep. Stay up one more hour!"

The question then arises: Whom should Abe obey,—Frank or me? To simplify the case, let's stipulate that both bedtime commands are consistent with the law of nature on which parental authority ultimately depends. In other words, the present case does not turn on a comparison between a reasonable command, and an unreasonable or even abusive one. Whether my son should go to bed now or an hour later is a matter of

reasonable disagreement among ordinary adults that grasp and comply with the dictates of the natural law.

The point of the case is to show that we harbor the strong intuition that Abe is morally obligated to obey my command, and should head right off to bed. I have a moral standing regarding my son that outweighs whatever authority Frank—as a well-meaning ordinary adult—may wield over my child. In the light of Abe’s natural duty of self-preservation, the important philosophical question is what differentiates my moral standing from Frank’s such that my son has a special obligation of obedience to me, and not just any ordinary adult?

The parental liberal immediately dismisses the suggestion that Abe is specially obligated to obey my command because he is my biological son. The fact that I sired Abe may impose upon me certain obligations of care, but that is a different consideration from why Abe would be especially obligated to obey my commands.<sup>228</sup> Abe is not morally obligated to obey my commands just because he is my spawn. For those who believe that biological lineage does have moral implications for understanding the particularity of parent–child relations, the challenge would then be to explain parental authority over adopted children. If Abe were in fact my adopted son, I believe that would have no bearing on the justification of my authority over him. We should resist the possibility that there are multiple justifications for parental authority—one that explains authority over biological children and one over adopted children—as superfluous.<sup>229</sup> Whatever justifies our authority over adopted children can also justify our authority over our biological

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<sup>228</sup> I later argue that begetting a child may only impose general and fairly minimal obligations of care, but not the special and demanding obligations of care incumbent upon parents.

<sup>229</sup> The same is true for our explanation of the particularity of parental authority. Our methodological ambition is to show that whatever explains the particularity of parental authority should apply to both the case of biological and adopted children.

children (but not necessarily vice versa). Thus, when it comes to justifying parental authority, I think we should resist the claim that shared blood has any fundamental moral significance.<sup>230</sup>

If we dismiss biological lineage as the explanation for Abe's special obligation to obey my command over Frank's, what then remains? It's not that I am so much wiser, kinder, or more experienced in these matters than Frank that explains Abe's special obligation to obey me. The particularity of parental authority is insensitive to moderate disparities in the wisdom, kindness, or experience of parents and other ordinary adults. I say "moderate" because I can imagine cases in which Frank's commands would take precedence over mine, but only if my commands were so outlandish that they violated the natural law (e.g., if I commanded Abe to not sleep for the next three days). In such a case, my commands would amount to abuse or neglect, and Abe would not be required to obey me at all. But all things being more or less equal, I think it is clear that Abe has a moral obligation to obey me over and against competing commands from other ordinary adults.

### ***The Idea of Parental Consent***

I think the most promising explanation for Abe's special obligation to obey me over Frank is that I have agreed to ensure Abe's physical, cognitive, and moral development, and that my consent to serve as his parent—call it "parental consent"—establishes my special moral power to command him in accordance with the law of nature. My son may be obligated to obey other ordinary adults in certain circumstances,

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<sup>230</sup> I later explain how shared blood figures into parental liberalism's solution to the particularity problem. Suffice it to say, the biological relationship between parent and child emerges as a causal explanation for why biological parents are usually the adults to which children owe special obedience. Nevertheless, the parental liberal maintains that biological ties are not the moral justification for parental authority.

but he has a special obligation to obey me, especially in cases where my commands conflict with other ordinary adults.

Before showing how the idea of parental consent can explain the particularity of family relations, I think we need to explicate what parental consent is, and how we know when it has been given. With my previous criticism of voluntarism in mind, it is clear that parental consent is not necessarily express consent. If express consent is not general enough to explain political obligation for non-naturalized citizens, I assume it would also prove inadequate to explain the sort of consent involved in parental authority. Even in cases where parents have not expressly consented to assume parental duties—and very few have—we still believe they have authority over their children. Accordingly, I think express consent is a poor candidate for the sort of consent that is distinctively parental.

What about tacit consent? Remember, tacit consent is actual consent that does not depend on the declaration of any express oaths or giving of signs to indicate assent to a proposition.<sup>231</sup> Is parental consent a form of tacit consent? I think it is. But the sticky question with all tacit consent accounts is how we know when morally binding consent has been given. There is generally no official ceremony in which ordinary adults are presented with a child and informed that unless they indicate dissent, they agree to assume parental responsibilities.<sup>232</sup> The question then is what should count as tacit consent to assuming parental responsibility for a child?

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<sup>231</sup> I'm not considering the possibility that parental consent is a form of hypothetical consent. My criticism of hypothetical consent earlier in the chapter rules it out as the suitable grounds for any authority relation—political or otherwise.

<sup>232</sup> Adoption proceedings may come close to being this sort of “official ceremony.” I think the case of adoption is instructive, and I refer to it in the subsequent section. But founding a theory of parental authority on adopted children is like founding a theory of political authority on naturalized citizens. In aiming to articulate general theories of authority, special cases may prove instructive but are clearly not normative.

The most promising suggestion is that tacit consent is given when ordinary adults actually discharge parental duties of care. On this view, an ordinary adult who actually ensures the physical, cognitive, and moral development of a child may be interpreted as tacitly consenting to assume parental responsibility.<sup>233</sup> The critical issue at stake is whether ordinary adults can be said to be freely choosing to assume parental responsibility. We have seen that tacit consent can only be morally binding when certain conditions regarding the choice-situation are present—that is, what I have referred to as a valid choice-situation. In order to explore the plausibility of parental consent as a form of tacit consent, we need to know whether ordinary adults facing the option of becoming parents are in a valid choice-situation. If not, then we cannot interpret the actual discharge of parental duties as morally binding consent to the responsibilities of parenting.

As previously discussed, the first problem with tacit consent theory is that morally binding consent can only be given when it is actually possible to dissent if one wishes. Locke's claim that tacit consent is given once one enjoys the benefits of civil society—law and order, public roads, etc.—is problematic because there is no way for someone to avoid “enjoying” these public goods. As such, there would be no way to avoid tacitly consenting to political obligations of obedience and support. Without the possibility of dissent, we should not interpret mere enjoyment of public goods as an instance of tacit consent.

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<sup>233</sup> I worry that this claim can sound trivial, or at worst circular. The idea is that ordinary adults tacitly consent to assume parental responsibilities when they actually discharge the conventional duties of a parent. This is neither a tautological or uninteresting claim. In the political context, there is nothing obviously true about the claim that citizens that actually obey the law have tacitly consented to the authority of the regime. The claim about how we should interpret tacit consent in the parental case is similarly substantive. The important difference is that in the political case, I think it is plainly wrong that compliance with the law is tacit consent to the authority of the regime.

In the case of parental consent, it is clear that ordinary adults do have the ability to indicate dissent to assuming the responsibilities of parenting. Parenting is not like territorial residence. Ordinary adults are able to avoid exercising parental duties of care toward a child, and thus may avoid tacitly consenting to parental responsibility. Of course, an ordinary adult who chooses not to assume parental responsibilities may still be morally obligated to provide basic nourishment and protection for a child in need, at least until an ordinary adult does step forward to assume those responsibilities. But in this case we should recognize that the obligation to provide basic nourishment and protection to a parentless child is an instance of a general moral duty of benevolence that falls far short of the demanding and comprehensive nature of parental duty.

In addition to being able to avoid assuming parental responsibilities, ordinary adults are also morally permitted to avoid discharging parental duties. Many believe that ordinary adults have a moral obligation to discharge parental duties to the children they have sired. I doubt that's true. I have previously argued that the mere fact of biological lineage does not establish authority over a child. But even if that's right, we still need to ask whether siring a child imposes special obligations on the birth parents. If siring a child were to impose parental duties on the birth parents, then we would have to conclude that an ordinary adult who gives his or her child up for adoption has done something morally wrong. But that seems intuitively hard to swallow. The only special moral obligation that may follow from siring a child is an especially strong obligation to ensure that some ordinary adult assumes parental responsibility for the child, but not that the birth parent must be the one to do it. Consequently, there is nothing problematic with the

claim that a biological parent is morally permitted to refuse assuming parental responsibility for her spawn.

The second problem associated with tacit consent theory—at least when applied as a general solution to the problem of political obligation—is that individuals may not be confronted with a valid choice-situation in which there are multiple courses of action or states of affairs at least two of which do not impose excessive burdens on the individual's interests. As we argued above, there are common circumstances in which the excessive cultural, economic, and personal costs associated with emigration render a choice-situation invalid. Thus, we should not necessarily interpret continued residence as tacit consent to the political authority of the land.

When it comes to parental consent, I don't think the same problems arise. The choice facing an ordinary adult is whether to assume parental duties for a child or not. In contrast to the political case, it would seem that in the parental case there are at least two choices that do not impose consequences too detrimental to the interests of the individual. An adult can and may (in the sense of being morally permitted) choose to not discharge parental duties toward a child. Perhaps he or she is not willing to make the necessary sacrifices that parenting requires. In that case, he or she has not given tacit parental consent, has no special responsibilities to the child, nor does he or she exercise any special authority. If an adult discharges parental duties toward a child then, barring some sort of weird scenario, he or she has tacitly consented to assume parental responsibility because all the conditions for morally binding consent have been met.<sup>234</sup> Given the option to not discharge the full scope of parental duties—both psychologically possible and

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<sup>234</sup> Here's a weird scenario: someone puts a gun to my head and says, "Parent that kid or die." In that very special case, we should not interpret the actual discharge of parental duties as tacit consent to the responsibilities of parenting.

morally permissible—it cannot be said that the parent has no choice but to assume parental responsibility. Indeed, given the usual circumstances, I think we can conclude that the actual discharge of parental duties is tacit consent on the part of the ordinary adult to assume parental responsibility.

But perhaps this has all been too quick, for I can imagine an objection that challenges the claim that ordinary adults are generally in a valid choice-situation when it comes to parenting. Consider the following case: Hannah gives birth to a child. She is a mother to several children who she already struggles to feed, house, clothe, and educate. Hannah finds the possibility of not being the newborn's mother horribly painful. On the other hand, it may be possible but assuredly very difficult to provide the new baby with the adequate resources—both material and personal—to which every child is entitled. In short, Hannah is stuck between a rock and a hard place. She finds herself in a choice-situation that includes multiple courses of action all of which seem to impose consequences excessively detrimental to her interests. Her choice between emotional devastation and deepening poverty is really no choice at all. In the event that she does discharge the usual parental duties, we should not conclude that she has tacitly consented to assume parental responsibility because the necessary conditions for a valid choice-situation have not been satisfied.

To remind the reader, there's a lot at stake in the present discussion. If Hannah's case undermines the plausibility of parental consent, then we cannot appeal to it as the explanation for why children have special obligations of obedience to their parents. If we cannot account for the particularity of authority relations in the family—the case where we harbor especially strong intuitions about particularity—then there is serious doubt that

we could account for particularity in the political domain. And if we can't account for particularity in the political domain without appealing to the consent of the governed, then the criticism that natural duty accounts of authority are in principle deficient would be affirmed. The specter of philosophical anarchism looms once more.

In response to the above objection, we should begin by noting that it is *always* possible to sketch a case in which one's emotional response to a certain course of action is stipulated to cause great emotional distress. It's an interesting question to consider the role that emotion—no matter how unreasonable or unjustified it may be—should play in our philosophical investigations. Without delving too deeply into that subject, I would just like to point out that Hannah's emotional distress at not discharging parental duties toward her newborn is not because the child would otherwise be exposed to the elements. Now *that* would be horribly upsetting. But no, the child will be adequately cared for, just not by Hannah, and that's the cause of her emotional distress. Not being the one to raise the child you birthed may be very upsetting, but it's at least questionable whether a reasonable person in Hannah's situation would experience emotional distress that rises to the level necessary to count as excessively detrimental.

In addition, I think we need to keep in mind that Hannah desires to parent the child because she loves it. Isn't there something weird about describing a case in which someone gets to care for someone they love as excessively detrimental to one's *emotional* interests? I suppose Hannah could see her love for the child as something external to her will. Perhaps she resents how much she can't help but love the child. But unless we entertain the idea that our emotions can be so alienated from our will and still be *our* emotions, I remain resistant to conceding that Hannah's emotional distress motivated by

her own love is best described as being excessively detrimental to her emotional well-being.

Regarding the claim that the socioeconomic consequences of Hannah raising her newborn would be excessively detrimental to her interests, I concede that raising an additional child may prove very difficult. Hannah may have to rely on family and friends to help out, or apply for public assistance to get by—assuming she lives in a reasonably just society. My point is that in order for socioeconomic hardship to rise to the level of being excessively detrimental to her interests, the financial consequences of raising her newborn child would have to threaten the very possibility of her discharging her parental duties to her children. In the usual counterexamples to tacit consent theory, courses of action that involve the chooser's death or the profound destruction of the chooser's cultural and family identity are held up as examples of excessively detrimental options. I think Hannah's poverty would have to be very extreme to count as the sort of option that would undermine the claim that she faces a valid choice-situation. Indeed, in a reasonably just society the principles of distributive justice are arranged precisely to avoid anyone's socioeconomic status from being excessively detrimental to their most basic interests.

After a prolonged consideration of the objection, we can certainly grant that Hannah's situation is less than ideal, and that her options do involve significant trade-offs.<sup>235</sup> But I have tried to cast doubt on the claim that the trade-offs are so significant that we should conclude that she's not in a position to choose to take care of her newborn

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<sup>235</sup> It's helpful to remember that there's nothing problematic in a valid choice-situation exhibiting options that are not equally attractive to the chooser. Indeed, if there weren't ultimately better reasons for choosing one option over the other, then there would be no rational basis for choosing. The valid choice-situation would not then be a choice-situation, but only an arbitrary selection among indifferent options. It's hard to imagine such a selection packing much moral punch when it comes to assessing our moral and political obligations.

child. Nevertheless, I concede that there remains—at least in principle if not practice—the possibility of a case in which one would not be in a valid choice-situation when it comes to parenting, but I hope to have discredited the idea that such cases are common or easy to construct. If we aim to show how parental consent can prove a morally binding form of consent in the vast majority of cases, then I think we have reason to conclude that only in the most extreme and unlikely circumstances would the actual discharge of parental duties not constitute tacit consent to parental responsibility.

### ***Parental Consent and the Particularity Requirement***

I have tried to explain the idea of parental consent, and defend the claim that ordinary adults are generally in a position to make morally binding choices regarding whether or not they will assume parental responsibilities for a child. But how exactly does the idea of parental consent explain the special obligations children have to obey particular adults—that is, their parents? The best way to answer this question is to assume the perspective of the child.<sup>236</sup>

In order to be subject to parental authority in the first place, the child must at least be able to acknowledge and commit to the discharge of his natural duty of self-preservation.<sup>237</sup> In addition, the child must also be aware that discharging his natural duty of self-preservation is best achieved by deferring to someone else's judgment in certain matters. If you think back to the original example involving Frank and me issuing conflicting commands to my imaginary son, Abe, we can then ask how the idea of

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<sup>236</sup> Looking forward to the next section, it's appropriate to begin focusing more on the perspective of the child than that of the parent, since the child's perspective is analogous to the perspective of the citizen from which the problem of political obligation arises.

<sup>237</sup> I discuss the moral and cognitive requirements in order for a child to be subject to parental authority in chapter 1.

parental consent explains why Abe has a special obligation to obey my command over Frank's. Unlike Frank, by discharging parental duties toward Abe, I have tacitly consented to take parental responsibility for Abe's welfare. Frank cares deeply about Abe, but he has not—and I will soon argue could not—make the same commitment to Abe's welfare and education as I have.

As I argue in chapter 1, if Abe is properly subject to parental authority, then he must be responsive enough to moral reasons to grasp the concept of being morally obligated to another's commands. As someone aware of and committed to discharging his natural duty of self-preservation—as well as the need to depend on someone else's judgment in securing it—Abe has a reason to identify the ordinary adults that can ensure he discharges his natural duty. But when Abe looks out into the world, he sees an ocean of adults all capable of issuing commands. Which should he obey? How can Abe, with his limited moral and cognitive faculties, make reliable distinctions on a case-by-case basis between those commands he must obey, and those he may not? Indeed, if he could make such distinctions, then he would meet the threshold conditions for basic moral equality, and the question of parental authority would be moot.

From the perspective of the child, even though he cannot make epistemic distinctions among adults, he can make morally significant ones.<sup>238</sup> And as it turns out, not all adults are morally interchangeable. Some have shown a particular interest in Abe's welfare. More to the point, some have agreed to take responsibility for Abe's welfare, even when doing so may incur certain costs or sacrifices to their own interests. Whom

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<sup>238</sup> It is necessary to show how special obligations to particular adults could be justified from the perspective of the child subject to authority relations. Parental liberalism is aptly named, since it embraces the liberal commitment to justifying authority from the perspective of the individual subject to it, and not simply those who exercise it.

does Abe have most reason to obey regarding how he is to live his life? Perhaps the optimal answer would be that Abe has most reason to obey the adult who is wisest about how to live. But of course Abe is not equipped to make epistemic distinctions regarding the wisdom of adults. His cognitive and moral faculties only permit him to know he needs help, but not necessarily who would be best equipped to help him.

What would be the next best alternative? Since Abe is not able to distinguish among the wisdom of adults, the next best alternative would be for him to prioritize the commands of those adults who have agreed in a morally binding way to ensure his physical, cognitive, and moral development. If Abe knew that some adults had agreed to discharge parental duties toward him, then he would have reason to prioritize their commands over the commands of other adults who are not bound to promote his development into an adult worthy of basic moral equality. This is the importance of the idea of parental consent. By agreeing to ensure Abe's welfare and education, I provide a reason for him grounded in his own duty of self-preservation to set me apart from other adults. Abe's special obligation to obey me thus derives from his natural moral duty of self-preservation given particular direction and focus by my consent to ensure his physical, cognitive, and moral development.

In the previous section, I argued that the actual discharge of parental duties constitutes tacit consent on the part of the parent to ensure the physical, cognitive, and moral development of a child. My appeal to tacit consent may mislead some to think that parental liberalism is ultimately some weird form of voluntarism. I say "weird" because if it were a voluntarist account, it would not assert the familiar claim that we may be morally obligated to authority to which we consent, but rather the claim that we may be

morally obligated to authority that comes about from another person's consent. In order to allay any confusion about how parental liberalism understands the justification of parental authority, it is worthwhile to clarify the role parental consent plays in the account.

Parental consent is introduced to explain why children have special obligations of obedience to particular adults (i.e., their parents). But it would be a mistake to assume that parental consent is sufficient to justify parental authority. To see why, consider a case in which an adult initially consents to assume parental responsibility for a child, but then fails to discharge their parental duties of care over time. Does the adult possess parental authority over the child? No. From the viewpoint of the parental liberal, parental authority ultimately depends on whether its exercise secures the fundamental well-being of the child. Parental consent without the subsequent discharge of parental duties of care does not itself generate obligations of obedience on the part of the child.<sup>239</sup> For this reason, I think it is wrong to think that parental liberalism is plausibly described as a form of voluntarism. Unlike genuine voluntarist theories of authority, parental consent is not sufficient to justify the exercise of parental authority.

There is one special case in which parental consent may seem sufficient to justify parental authority. Consider the case of the adopted child, in which I give express consent to assume parental responsibility. Do I have authority over my newly adopted son the moment I meet him? I think I do. But if my consent to serve as his parent is not tacit, then my exercise of parental authority begins before I actually discharge any parental duties.

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<sup>239</sup> It's interesting to note that the question of whether the discharge of parental duties without parental consent is sufficient to establish parental authority never gets off the ground. If I'm right in arguing that under anything less than extreme circumstances, the discharge of parental duties of care is tacit parental consent, then there is no case in which an adult's discharge of parental duties is not also his or her tacit consent to assume parental responsibility.

There is then no possibility that the justification of parental authority could be the actual discharge of parental duties. This is one case in which it seems that parental consent is sufficient to justify my claim to exercise special moral powers over the child in accordance with the law of nature, as well as his special obligation to obey me in particular.

The above case demonstrates the ability of parental consent to act as both the justification of parental authority as well as the explanation for its particularity. But I don't think this concession requires us to drastically alter the view that it is the discharge of parental duties and not parental consent that ultimately justifies the normative power of parental commands. The special case of adoption, in which parental consent is expressly given, demonstrates that parental consent can imbue an ordinary adult with the obligation to discharge parental duties; but if that obligation is never discharged or fails to be discharged over time, then the adult's claim to special moral powers over the child is eventually nullified.<sup>240</sup> In this sense, the special case of adoption ends up bolstering the view that the justification of parental authority rests on the discharge of parental duties. To account for the special case of adoption, we might say that while parental authority may originate in parental consent, parental consent can never serve as anything other than an initial and momentary justification for its exercise. Once parental consent establishes a particular adult's initial authority over a child, any justificatory role for parental consent

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<sup>240</sup> This is not the place to delve deeper into the details of what it means for a parent to no longer fulfill parental duties. For instance, is a parent ever allowed to shirk any of her parental duties and yet still retain her parental authority? Parental liberalism does not require parental perfection. The idea that parents may occasionally make mistakes or fail to discharge a parental duty without necessarily undermining their authority over the children may explain the intuition that children may have a moral obligation to obey unjust parental commands. Exactly when an adult's delinquency counts as undermining his parental authority is best adjudicated on a case-by-case basis.

comes to an immediate end in favor of whether an ordinary adult succeeds in discharging the appropriate parental duties.

Clarifying the role of consent in parental liberalism helps to forestall the following objection: Does the simple fact that an ordinary adult consents to raise a child entail that the child has a special obligation of obedience to that adult? Not necessarily. Thinking back to the Thanksgiving-dinner case, even if Frank agrees to raise Abe into an adult entitled to basic moral equality, his willingness to take on the full gamut of parental duties does not undermine my special status as Abe's parent in good standing.<sup>241</sup> As long as I am successfully discharging my parental duties, Abe remains especially obligated to obey me and not Frank.

This is not to say that Frank couldn't come to acquire parental authority over Abe. If I failed to discharge my parental duties toward Abe, I suppose Frank could step in as Abe's parent, as could any ordinary adult willing to shoulder the responsibility of parenting. In addition, I might choose to share parental authority with Frank, but such a decision would be entirely my prerogative.<sup>242</sup> There is thus a kind of contingency implicit in the concept of parental liberalism: any ordinary adult is initially eligible to consent to raise a child, and as long as he discharges the parental duties of care, the adult maintains parental authority. But once parental consent has been given either expressly or tacitly through the discharge of parental duties of care, parental authority exhibits a marked exclusivity. So long as I continue discharging my parental duties, no other ordinary adult

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<sup>241</sup> Given my account of tacit consent, we should remember that Frank's parental consent need not be express. He could simply start to discharge some of the conventional duties of parental care. The point here is that Frank's willingness to care for Abe is not necessarily sufficient to establish parental authority.

<sup>242</sup> It must be possible to share parental authority, otherwise we would not be able to explain how a child could be equally obligated to obey the commands of particular ordinary adults. Without such a possibility, all families would be single-parent families from the perspective of morality. In addition, there is nothing in the present account that presumes that children may be subject to no more than two parents. Parental liberalism does not presume the nuclear family as the only defensible parenting scheme.

can assume parental authority over my child without my consent. Not because parental authority involves any sense of ownership over a child, but because the natural duty of care that justifies the exercise of parental authority only applies to children actually in need of care. In cases where a child is already being adequately cared for, the natural duty of care has been discharged, and neither consenting to care for a child nor actually caring for a child is sufficient to establish special moral powers over the child.

In this way, we can explain how Frank's consenting to raise my child does not necessarily entail that Abe has a special obligation of obedience to him. The result is that we should amend our previous claim regarding the particularity of parental authority: the particularity of parental authority originates in the consent of an ordinary adult to protect the welfare and education of a child *in need of such care*.<sup>243</sup> The consent of an ordinary adult to parent a child already being adequately parented does not then necessarily generate the moral power to command the child, or trigger the child's special obligations of obedience.

We can now appreciate the causal role that biology does play in determining authority relations in the family. Parental liberalism readily concedes that ordinary adults are as a matter of fact frequently imbued with parental authority over their biological children, but the prominence of biological relations between parents and children does not reflect the moral significance of shared blood. Instead, siring a child merely puts an ordinary adult in position to make the first claim to parental authority. In effect, biological parenthood endows an ordinary adult with "first dibs" on whether she assumes

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<sup>243</sup> Reflecting the threshold structure of Locke's moral theory, parental liberalism endorses a minimal standard that must be met in order to ground a claim to parental authority. Just because another adult could be a "better" parent does not necessarily threaten my authority as a parent, so long as my parenting satisfies the minimal standards of care that justify the exercise of authority over a child.

parental responsibility for the child she has sired. In the event, however, that the biological parent refuses to assume parental responsibility, the subsequent relationship between the child and its adoptive parent is not morally distinguished from authority relations in the family between persons who are biologically related.

Despite the appeal to consent, parental liberalism remains a genuine natural duty account of parental authority. The essence of a natural duty approach to parental authority posits that filial obedience is derived from the child's natural duty of self-preservation. The idea of parental consent explains why filial obedience is owed to a particular adult, and not just any adult who issues commands in accordance with the law of nature. The critical point is that the parental liberal believes that the child's obligation to obey his parents in no way depends on the child's consent to their authority.

Nor should the parental liberal's conception of filial obedience be interpreted as a matter of gratitude in response to the benefits that arise from the discharge of parental duties. In contrast to gratitude accounts of authority in which obedience is owed as a response to the conferral of benefits, parental liberalism claims that a child is entitled to the benefits produced in the discharge of parental duties of care. It would be morally inappropriate to claim that we owe gratitude to those who give us what we have a claim to enjoy. The benefits of parental care are not a gift, but rather the child's due.

I have tried to show how a natural duty account of parental authority could satisfy a particularity requirement that posits special obligations of obedience for a child toward particular adults. My view is that parental authority originates in parental consent to take on parental duties for a child in need of such care. While the particularity of parental authority may originate in an adult's consent, its justification ultimately depends on

whether the adult actually discharges parental duties of care. So long as an adult succeeds in discharging these duties toward a child, the child has a special obligation grounded in the natural moral duty of self-preservation to obey the commands of a particular adult, and not just any adult issuing commands in accordance with the law of nature. In this way, we can see how the generality of a natural moral duty can cohere with more particular duties of obedience to specific individuals. The particularity requirement regarding the authority of parents has been met. The question to now consider is how the solution in the parental case can help us respond to the particularity requirement in the domain of politics.

### ***The Particularity of Political Obligation***

In the previous section I argued that parental liberalism satisfies the particularity requirement as it applies to authority relations within the family. In this final section, I consider how parental liberalism's account of particularity can help us address the particularity requirement as it applies to natural duty accounts of political obligation. As previously discussed, natural duty accounts of political obligation are attractive because they do not predicate duties of political obedience and support on the consent of individual citizens (the voluntarist approach) or acceptance of the benefits of social cooperation (the fair play approach). Natural duty theorists claim that our political obligations are grounded in a natural moral duty of justice, which obligates us to comply and support just regimes. The most significant challenge for the advocates of the natural duty approach to political obligation is to explain the strong intuition that we have special obligations of obedience and support to particular just regimes. If we cannot explain how special obligations of obedience and support can be derived from our natural duty of

justice, then the problem of political obligation remains unsolved, and the case for philosophical anarchism is strengthened.

In recent times, John Rawls has emerged as a prominent advocate of the natural duty approach to political obligation. In chapter 6 of *A Theory of Justice*, Rawls characterizes the natural duty of justice as a moral requirement to “support and to comply with just institutions that exist and *apply to us* [emphasis mine].”<sup>244</sup> He further claims that the natural duty of justice also “constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves.”<sup>245</sup> Lastly, political obligation, according to Rawls, is grounded in a genuine natural duty because each is bound to comply with and support the just political institutions that apply to him “independent of his voluntary acts, performative or otherwise.”<sup>246</sup>

John Simmons is sympathetic to Rawls’s claim that we may have a natural moral duty to promote justice throughout the world. Promoting the establishment of just regimes may make a claim on our attention, effort, and resources, but not necessarily our obedience to their laws. On the other hand, Simmons rejects Rawls’s claim that the natural duty of justice obligates us to both comply with and support political institutions that apply to us. Rawls’s inclusion of the qualifying phrase “applies to us” seems to acknowledge the intuition that we have special moral obligations to particular regimes—that is, the ones that “apply to us.” The challenge, however, is whether we can explain the moral significance of what it means for just institutions to apply to us. Unfortunately, Rawls never fully develops his account of the individual’s natural duty of justice, and

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<sup>244</sup> Rawls, *A Theory of Justice*, 99.

<sup>245</sup> Ibid.

<sup>246</sup> Ibid.

quickly returns to exploring the demands of justice applied to the basic structure of society.

Simmons takes up where Rawls leaves off, and suggests three possible interpretations of the particularizing phrase “applies to us.” Just institutions that “apply to us” could refer to institutions that apply to us “weakly,” “territorially,” or “strongly.”<sup>247</sup> Just institutions that apply to us “weakly” are those whose rules pick us out in a certain way. Simmons’s example involves an organization dedicated to the advancement of political philosophy, which solicits donations from political philosophers to support its advocacy work on their behalf. There is a sense in which the organization applies to Simmons—he is by his own admission a kind of political philosopher—but does this sense of application generate moral obligations of compliance and support on his behalf? Simmons may certainly contribute to the organization, but he is convinced that he is not morally obligated to support an organization that has picked him out as qualifying for membership. Without consenting to membership or accepting the benefits of membership (in the spirit of the fair play approach), a political philosopher cannot be obligated to support the organization even though he or she may benefit from its existence.

The second sense in which just institutions may apply to us is “territorially.” Just institutions apply to us “territorially” when they govern the territory in which we reside. According to Simmons, the mere fact of residence is not enough to justify political obligations of compliance and support. As in the “weak” sense of application, Simmons doubts that political obligations of compliance and support can arise from the entirely passive fact of residence. Without our consent or willing acceptance of benefits, the mere

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<sup>247</sup> Simmons, 149, 150.

fact of residence cannot do the moral work necessary to generate individual political obligations.

The third sense in which just institutions may “apply to us” is the “strong” sense, in which we have consented to comply and support them. Putting aside perennial questions about how we should interpret when consent is given, it is clear that there is no problem in understanding how our consent to comply and support just institutions could generate political obligations for us to keep our word. The sense in which institutions apply to us “strongly” is thus morally significant enough to support obligations of compliance and support on the part of those who have consented.

But of course the merits of the natural duty account of political obligation have now been eliminated. If we entertain natural duty accounts as a possible remedy to voluntarism’s failure to account for general political obligations, then we should be disappointed upon discovering that the only morally significant sense in which just institutions “apply to us” yields no wider a scope of political obligation than traditional consent theories provide. It looks like we are left with a choice between a particularized natural duty account of political obligation that cannot explain how general moral obligations are generated, or one that explains the particularity of political obligations but at the expense of their generality. The end result, Simmons concludes, is that the natural duty approach is not able to explain special obligations of obedience and support without collapsing into voluntarism. It would seem that only personal transactions of the sort on which traditional consent theory is based are able to explain the special weight of our obligations to particular regimes. The problem of political obligation remains unsolved. Philosophical anarchism, once again, emerges as the unsettling alternative.

My argument is that the natural duty account of political obligation can account for special obligations of obedience and support to particular regimes. On my view, Simmons's criticism of natural duty accounts overlooks a morally significant consideration that succeeds in distinguishing our moral obligations to all just regimes from our obligations to particular ones. In effect, I argue that there's an additional and plausible interpretation of what it means for political institutions to "apply to us" that Simmons never considers. Of course, I suspect that Simmons overlooks this additional interpretation because like most contemporary thinkers he frames the problem of political obligation in isolation from analogous problems in other relevant domains such as the family. Once we bring our reflections regarding the particularity of parental authority to bear on the political question, I argue that we discover a way to interpret what it means for just political institutions to apply to us that can satisfy the particularity requirement.

If I am right about the role that parental consent can play in explaining the particularity of authority in the family, then parental liberalism can serve as a guide to help articulate a similar account in the political domain. Obviously, the trick is to be as sensitive to disanalogies between the family and the state as we are to the ways in which they may resonate. To begin, we should appreciate that the structure of the natural duty account of political obligation is analogous to the natural duty account of filial obedience. In both accounts, we begin with a basic moral duty—that is, to secure fundamental moral rights or self-preservation, respectively—and then claim that we have special moral reasons to comply with certain institutions or persons—whether the state or a parent—as a means to discharging our basic moral duty. As in the parental case, the challenge is to

specify what reasons there are to think that we have special obligations of obedience and support to particular political regimes.

Let's begin by constructing a case regarding our political obligations roughly analogous to the Thanksgiving-dinner case regarding filial obligations. Imagine that I receive in the mail two letters from two reasonably just political regimes that govern distinct territories—call them Aragona and Syntaxia. The first letter informs me of a tax law that obligates me to pay \$1,000 to support the Aragonan military; the second letter informs me of a tax law that obligates me to pay \$1,000 to support the Syntaxian military. Let's stipulate that the laws in question are in accordance with justice. For instance, they have been democratically enacted, and the tax burden is fairly distributed throughout both societies. Furthermore, the Aragonan and Syntaxian militaries are only employed in accordance with just war principles—that is, only as a defensive measure to protect the fundamental moral rights of its citizens from foreign invasion or domestic insurrection. Given that the natural duty of justice requires us to comply with the just political institutions that apply to us, how can we make sense of the intuition that we may have special moral obligations to comply with the demands of one letter but not the other?<sup>248</sup>

In line with Simmons, let's put aside the possibility that a natural duty account of political obligation can explain particularity on the basis of some individual transaction or mere territorial residence. The appeal to individual transactions such as consent or acceptance of benefits can generate particular political obligations, but not general ones. The fact of mere residence struggles to generate political obligations of any sort. But what of the first “weak” interpretation of what it means for political institutions to apply

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<sup>248</sup> The strong cosmopolitan would argue that this example does not present the important moral choice, which is not between competing national allegiances but rather between international allegiance and all national allegiances. I later engage strong cosmopolitan objections at length.

to us? On this interpretation, just political institutions that “apply to us” are those whose rules pick us out as members. In Simmons’s example, he argues that he would have no moral obligation to comply with the rules of an organization dedicated to the advancement of political philosophy even though the organization identifies him as a political philosopher qualified for membership, and likely to benefit from its activities. In dismissing the “weak” interpretation of the particularity of our political obligations, Simmons exploits the familiar idea that we are not generally bound by the actions of others. The fact that the organization has decided to dedicate itself to promote the interests of political philosophers does not then generate moral obligations of compliance and support on the part of those eligible for membership or those likely to benefit from its advocacy.

It is here that we should recall the solution to the particularity problem regarding parental authority. Parental liberalism asserts that there are cases in which special moral obligations of compliance may arise from the actions of others. Given the natural moral duty of self-preservation, the child in need of care has a special moral obligation to comply with the just commands of an ordinary adult who consents to ensure the child’s development into an adult worthy of basic moral equality. Whether the child is specially obligated to obey his parent has nothing to do with the moral power of the child to consent to the authority of his parent. Parental liberalism recognizes the moral force of consent but locates it on the other side of the parenting equation. It is the adult’s consent to ensure the physical, cognitive, and moral development of a particular child that explains why that child has a special moral obligation of obedience to its parent, ultimately grounded in the child’s natural duty of self-preservation.

How can parental liberalism help us cut the Gordian knot that Simmons has tied for us? My overall aim is to vindicate a natural duty approach to political obligation that can account for the intuition that we have special moral obligations of obedience to particular just regimes. The appeal to natural duty is clearly able to generate general political obligations, but is it possible to explain their particularity without collapsing into voluntarism or appealing to considerations that fail to generate political obligations in the first place? I think it can.

The first step is to notice that Simmons's argument against the weak interpretation of particularity trades on an analogy between the political philosopher picked out by a voluntary organization advocating for his professional interests, and the ordinary adult picked out by the state as entitled to the protection of his fundamental moral rights such as life, liberty, and property. Why should we think that both cases must yield the same conclusions regarding moral obligations of obedience and support?

The primary disanalogy to notice between the two cases is that there is no natural duty that compels us to obey and support organizations promoting our professional interests. There is, however, a natural duty of justice that compels us to obey and support organizations dedicated to securing fundamental moral rights such as life, liberty, and property. There is then an enormous difference between what's morally at stake in the two cases. Consequently, we may not be able to infer on the basis of Simmons's political philosophy example what we should think about the political case in which an individual whose fundamental moral rights are not yet adequately protected is picked out by an organization—the state—for such protection. Furthermore, the state can make a plausible

case that the protection of fundamental moral rights cannot be accomplished without compliance with its rules and support for its institutions.

We should of course be mindful of the standard objection against such a claim: while the protection of fundamental moral rights may require widespread compliance and support, it doesn't follow that such protection requires any particular individual's compliance and support. But I believe the natural moral duty of justice has an other-regarding structure that compels us to secure the fundamental moral rights of all ordinary adults, and not just one's self or one's compatriots.<sup>249</sup> Given the other-regarding demands of the natural moral duty of justice, it seems plausible to believe that an individual's violation of the law and failure to support the just political institutions of a particular regime does contribute to a state of affairs in which the fundamental moral rights of all citizens are indeed worse off than they would be otherwise. For example, how could an individual committed to the realization of justice in the world justify his refusal to comply with laws and political institutions dedicated to securing the fundamental moral rights of his fellow citizens? If justice were simply a matter of the individual's moral rights, then it is plausible to suppose that free-riding on the widespread contributions of others may not have any deleterious effect on the individual. But if justice does have other-regarding implications, then an individual's refusal to respect other citizens' rights to life, liberty, and property, or his refusal to support the institutions charged with administering the protection of those rights will plausibly entail that justice is worse off than it would otherwise be in a regime that enjoys universal compliance and support.

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<sup>249</sup> If the natural moral duty of justice did not require us to secure the fundamental moral rights of all ordinary adults—not just ourselves or our compatriots—then how would we explain Rawls's claim that we have natural moral duties of justice to promote justice throughout the world? The other-regarding structure of justice also explains why we have no obligation to obey an unjust regime even if such obedience were to our particular benefit.

Thus, from the point of view of justice, I think we all have a reason to comply and support the institutions of a just regime of which we are citizens.

Altering what's morally at stake in Simmons's example shows that it's by no means obvious that an individual whose fundamental moral rights are not yet adequately protected would not have a natural moral duty of justice that obligates him to comply with or support an organization dedicated to such protection. In fact, given that the alternative to political allegiance is a state of nature in which fundamental moral rights are not adequately protected, it seems obvious that an individual may be morally obligated to comply with and support the state quite apart from whether he consents to such an obligation or not.<sup>250</sup>

Even if I'm right about the possibility that moral obligations of compliance and support can befall us entirely on the basis of our natural moral duties, the victory is only partial. All I have shown so far is that the weak interpretation of what it means for institutions to "apply to us" can—*pace* Simmons—generate moral obligations of compliance and support. It still remains to be seen what reason the individual has to see himself as specially obligated to obey and support a particular regime. Once again, it is helpful to think back to our solution to the problem of particularity in the family domain.

### ***Sovereign Consent and the Particularity Requirement***

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<sup>250</sup> The idea of the state of nature suggests an additional weakness of the voluntarist approach to political obligation. The individual in a state of nature may not be in a valid choice-situation. It would all depend on whether the state of nature is as Hobbes imagines it—a state of war—or as Locke imagines it—a tolerable but not morally optimal state of affairs. In the former case, it is hard to imagine the individual could be said to have any choice but to submit to the authority of the sovereign. Of course, Hobbes denies the entire concept of a valid choice-situation, arguing that every situation, no matter how dire, presents the individual with a morally binding choice-situation. I think he's wrong.

I have argued that children have a natural duty of self-preservation that obligates them to obey those agreeing to secure for the child the prospects of a minimally decent life. I appealed to the idea of parental consent to explain why children have special obligations of obedience to particular adults. Could a similar idea prove helpful in responding to the particularity requirement in the political case? I think so. There is a conceptual resonance between the way in which an adult may agree to assume parental responsibility for a child, and the way in which a just regime may agree to assume moral responsibility for an individual. Or, to put it another way, there is a deep connection between the ideas of the child subject to a particular parent and the citizen subject to a particular regime. In both cases, an individual is picked out to be the beneficiary of goods—self-preservation or justice, respectively—that the individual has a natural moral obligation to secure. In addition, the individual’s compliance and support is seen as a necessary means to realizing the goods in question. In much the same way that parental consent can generate special obligations of filial obedience to a particular adult, I argue that the consent of a just regime—call it “sovereign consent”—to ensure the protection of an individual’s fundamental moral rights can generate for that individual special obligations of obedience and support to the consenting regime.

What is sovereign consent? Sovereign consent is the consent of a just regime to make special efforts to protect an individual’s fundamental moral rights to life, liberty, and property. As in the parental case, sovereign consent may be express or tacit. Tacit sovereign consent is given when a regime actually discharges its natural moral duty to protect the fundamental moral rights of individuals in need of such protection. Sovereign consent picks out certain individuals to be “citizens” especially entitled to the regime’s

political and legal protections. In this sense, citizenship is not always the product of our choosing. It is initially chosen for us by a regime—a fact that I argue can have profound implications for how we understand our political allegiances.

The usual problems associated with the notion of tacit consent do not apply in the case of sovereign consent. A just regime clearly finds itself in a valid choice-situation. It may or may not consent to extend citizenship to an individual without running the risk of consequences excessively detrimental to its interests. In discharging political duties of protection to an individual, we may interpret the regime as consenting to recognize the individual as a citizen for whom the regime assumes special responsibility when it comes to the protection of his or her fundamental moral rights.

What's the argument for the claim that sovereign consent can give rise to special political obligations to particular just regimes? As we did in the parental case, we need to assume the perspective of the individual subject to authority, and not the entity exercising it. To begin, the individual finds himself identified by a particular regime as a citizen—one for whom the regime is especially committed to the protection of his or her fundamental moral rights. In this sense, sovereign consent picks out an individual as having moral interests of particular concern to the consenting regime. In response, the regime agrees to make special efforts to protect the fundamental moral rights of the individuals it identifies as one of its citizens. It may still be subject to general humanitarian duties, but nevertheless distinguishes its moral obligations to its citizens from its obligations to all persons regardless of citizenship.

Given the sovereign's consent to assume special moral responsibility for the individual's fundamental moral rights, the individual then has a reason grounded in his

natural moral duty of justice to morally distinguish his political obligations to the regime of which he is a citizen from his obligations to other just regimes of which he is not. In short, the argument is that the individual citizen has a reason grounded in the natural moral duty of justice to make moral distinctions among just regimes because they make prior moral distinctions among persons.

Recalling the example involving Aragona and Syntaxia, we can now spin out the implications of the above view. The essential question we need to ask in assessing whether I have a special moral obligation to comply with Aragona's or Syntaxia's military levy is not necessarily where I happen to reside, or whether I accept the benefits of social cooperation that residence in one territory or another might deliver. Simmons is right to dismiss these considerations as the ground of political particularity. The important question is whether Aragona or Syntaxia has picked me out as entitled to special protection of my fundamental moral rights. In other words, am I a citizen of Aragona or Syntaxia?

If Aragona has identified me as a citizen entitled to special protection, then I argue that under certain plausible conditions I have a special moral obligation to comply with its military levy, but not Syntaxia's.<sup>251</sup> Even though Syntaxia will use the funds collected to support a military dedicated to protecting the fundamental moral rights of its citizens, I have a special obligation to comply with Aragona's tax law because the regime has agreed to make special efforts to protect my fundamental moral rights. I suppose there's no reason why I would be prohibited from contributing funds to support the military of another just regime, but there's no moral obligation for me to do so. And

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<sup>251</sup> I enumerate those "plausible conditions" in my subsequent response to the strong cosmopolitan's objection to sovereign consent.

given the reality that few of us have the resources to be so generous, I think the ability to morally distinguish between competing commands is essential.

I now want to consider four objections to the claim that sovereign consent can generate special obligations of obedience and support to particular regimes. The first objection comes from the strong cosmopolitan who denies that particularized political obligations can be justified on the basis of justice. Those with strong cosmopolitan views are likely to insist that because justice requires an impartiality regarding the moral importance of persons, the natural duty of justice rules out the existence of special moral bonds between individuals and particular regimes. Justice requires that we act as though we are citizens of the world. I have previously offered reasons to think the strong cosmopolitan view is problematic; nevertheless, I am willing to entertain the view here because I think doing so eventually suggests that even the strong cosmopolitan may have to concede that special moral obligations of compliance and support to particular regimes are not necessarily inconsistent with justice.

The strong cosmopolitan is committed to an ideal in which regimes make no moral distinctions between persons. The only idea of citizenship the cosmopolitan finds morally respectable is global citizenship in which the state makes no moral distinction among persons on the basis of national belonging. While I deny that global citizenship is ideal, it is clear from the perspective of the strong cosmopolitan that the fact that regimes do make moral distinctions among persons is ultimately a problem in nonideal theory. Given this nonideal fact about the world, must the strong cosmopolitan necessarily

conclude that special moral obligations between individuals and just regimes violate the requirements of justice?<sup>252</sup>

Recalling my previous remarks, we should remember that special obligations of obedience and support are not inconsistent with general humanitarian duties. But the strong cosmopolitan has a point. As individuals, we have limited resources, and the claim that we have reasons grounded in justice—and not just self-interest or practical convenience—to prioritize our obligations to the regime of which we are citizens is likely to mean that we are not able to provide equal support for political institutions with global humanitarian missions. There is a cost associated with morally prioritizing national allegiances. But given the fact that regimes do treat citizens differently than noncitizens, what should an individual committed to realizing justice in the world do?

It may seem from the point of view of justice that it would be best to not respond to sovereign consent by prioritizing our political obligations. Because the argument I have offered in favor of particularized political obligations does not depend on the moral force of gratitude or even the notion of fair play, I suppose there is no necessary reason why sovereign consent would generate special political obligations in all circumstances. But we should remember that our political obligations to the just regime of which we are citizens are necessary means to realizing the regime's commitment to protect our fundamental moral rights. Without our compliance and support, the regime does not have

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<sup>252</sup> The strong cosmopolitan is certainly welcome to complain that I have missed the entire point of her criticism if I assert that “just” regimes may invoke a conception of citizenship that posits moral distinctions between persons. On her view, any regime that makes such distinctions discounts itself as a just regime. All I can say is that while the strong cosmopolitan view is internally consistent it nevertheless leads to the intuitively problematic conclusion that every regime that has so far existed in history has been unjust. Isn't it possible to think that while it may be morally ideal for a regime to endorse a conception of global citizenship, failure to do does not render it unjust? Political justice doesn't require perfection. Hence, Rawls's reminder that we are interested in the conditions of a “reasonably just regime,” and my view is that a reasonably just regime may endorse a conception of national citizenship.

the cooperation and resources necessary to protect the life, liberty, and property of its citizens in a less-than-ideal world. But even if this is true, why might we have reason to morally prioritize our political obligations to the regime? How may the acknowledgement of special moral obligations of compliance and support end up promoting justice?

The answer emerges once we realize the assumption on which strong cosmopolitanism rests. I have argued that sovereign consent to make special efforts to protect the fundamental moral rights of an individual in need of such protection may generate for the individual special moral obligations of compliance and support to the consenting regime. The strong cosmopolitan assumes that our fundamental moral rights would be adequately protected even if we refuse to prioritize our political obligations to the regime especially committed to our welfare. But that would only be true in a world in which there were international political institutions powerful enough to protect the fundamental moral rights of all persons. In this case, even if our refusal to prioritize our political obligations to national institutions were to undermine the ability of those institutions to protect the fundamental moral rights of its citizens, we could rest assured that the international institutions could and would step in to pick up the slack, so to speak. But this is clearly not the world we live in, and the recognition of this reality—perhaps another instance of a nonideal situation—must factor into our moral assessments regarding our political obligations. From the point of view of justice, we may all be better off by first securing our own fundamental moral rights by prioritizing our political obligations to particular regimes, and then dedicating any surplus resources to the

creation of international political institutions that endorse a global conception of citizenship.<sup>253</sup>

Perhaps this is what Rawls has in mind when he claims that the natural duty of justice “requires us to support and comply with just institutions that exist and apply to us,” but that we must also work to “further just arrangements not yet established, at least when this can be done without too much cost to ourselves.” Rawls may be acknowledging the strong cosmopolitan’s concept of justice while recognizing that there are cases in which justice may first require us to prioritize our national allegiances over our international ones.

The second objection is that the explanation of particularized political obligations is circular. It may seem that I derive particular political bonds between individual and regime by simply positing at the start particular political bonds between individual and regime. But that way of putting it overlooks the details of the argument. I am not claiming that individuals may have special moral obligations of obedience to particular regimes by simply stipulating that individuals may have such obligations. Rather, I argue that if a just regime consents to assume special responsibility for protecting the fundamental moral rights of certain persons, then those persons committed to justice have a reason to respond to sovereign consent by acknowledging special moral obligations of obedience and support to the regime in question. It is not circular to derive special political obligations on the part of the individual from special political obligations on the

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<sup>253</sup> One may object that I am assuming without argument a utilitarian conception of justice in which justice requires us to maximize the greatest good for the greatest number. To the contrary, the conception of justice I employ is an instrumental one in which justice is an end to be realized, but not maximized. It is the conception of justice I believe Rawls assumes in his brief remarks on the individual’s natural duty of justice in chapter 6 of *A Theory of Justice*.

part of the regime. In the argument for sovereign consent, the conclusion is clearly distinct from the premises.

The third objection to the idea of sovereign consent is that it seems to suggest that the agreement of any just regime to protect the fundamental moral rights of an individual is sufficient to establish particularized political obligations. And yet we harbor strong intuitions that we are not especially obligated to every just regime that agrees to make special efforts to protect our fundamental moral rights. Note my response to a similar objection lodged against parental consent. An adult's consent to assume parental responsibility for a child only generates obligations of filial obedience if the child is in need of such care. If the child is already being parented, then the natural moral duty of self-preservation has been discharged, and the moral significance of an additional adult's consent to parent is nullified.

Similarly, sovereign consent to make special efforts to protect the fundamental moral rights of an individual only generates political obligations of obedience if the individual is in need of such protection. In the case that the individual is already subject to the authority of a just regime, the individual's natural moral duty to secure his or her fundamental moral rights has been adequately discharged. The moral claim that a just regime's consent would otherwise make on an individual is thus nullified.<sup>254</sup> In this way, we can account for the intuition that a just regime's consent is not necessarily sufficient to establish special obligations of obedience and support to the regime in question.

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<sup>254</sup> Even if an individual's fundamental moral rights were already ensured, an individual may still have a moral obligation to a just regime that consents to ensure the fundamental moral rights of other persons. In this case we should conclude that the individual has an obligation to promote and support the other regime's efforts, but not necessarily to comply with its commands.

The fourth and final objection I want to consider is that the notion of sovereign consent cannot account for our intuitions regarding the moral permissibility of emigration. Sovereign consent is meant to explain how special moral obligations of obedience and support to a particular regime could be generated for individuals born into a particular political society. But of course citizenship need not always be chosen for us, and any account of particularized political bonds should be able to account for the moral permissibility of emigration and naturalized citizenship.

The resonance between the ideas of sovereign consent and parental consent emboldens the present objection. If the idea of parental consent morally prohibits children from choosing their parents, then perhaps the idea of sovereign consent would prohibit citizens from choosing their national allegiance. If sovereign consent were somehow inconsistent with the moral permissibility of an individual choosing his or her national allegiance, then we would have reason to discount the proposed solution to the particularity requirement.

In response, we should begin by noting that parental consent does indeed morally prohibit children from choosing their parents. The entire justification for parental authority rests on the distinctive epistemic position of the child. The child properly subject to parental authority relations is responsive enough to moral reasons to see the need for parental authority to be exercised over him, but not yet morally developed enough to discharge his natural moral duty of self-preservation on his own. The epistemic deficiencies of childhood deprive the child of the ability to reliably distinguish between ordinary adults when it comes to the quality of their parental judgment. Because of this

inability, there is a reason grounded in the child's natural moral duty of self-preservation to prohibit the child from choosing his own parents.

But the story is different for ordinary adults subject to political authority relations. By definition, ordinary adults have the epistemic ability to reliably distinguish between just and unjust regimes. Thus, from the standpoint of justice there is no problem with an adult emigrating from one just regime to another. The idea of sovereign consent explains why we have a reason to acknowledge special moral obligations of obedience and support to the regime that first agrees to assume special responsibility for our life, liberty, and property, but it does not follow that our particularized political bonds must be permanent. Exactly why one would want to switch national allegiances may remain a personal matter, so long as one's emigration decision does not threaten to undermine the protection of anyone's fundamental moral rights.<sup>255</sup> One interesting implication of the response offered here is that while an individual may be permitted to emigrate, there may be moral limits on an individual's emigration options. If the objection under consideration were to insist that a theory of political obligation ought not to impose any moral considerations on emigration decisions, then I suppose I would happily agree to disagree.

Before concluding, I want to point out two positive implications of sovereign consent. First, the idea of sovereign consent can explain the intuitive distinction between citizenship and residence. When we travel abroad or even establish permanent residence in the territory of another just regime—that is, Syntaxia—we do not necessarily renounce

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<sup>255</sup> In addition to excluding the moral permissibility of emigrating from a just regime to an unjust one, we should also consider the possibility that giving up citizenship in a just regime and becoming stateless may also be prohibited from the standpoint of justice. For instance, whether we should condemn Albert Einstein's decision in 1896 to surrender his German citizenship in favor of being stateless will depend on whether we believe the late nineteenth-century German Empire ruled in accordance with justice.

our special moral obligations of obedience and support to the particular regime that first specified us a citizen—that is, Aragona. We may have moral obligations of obedience to Syntaxia grounded in prudence and perhaps the duty of fair play, but those obligations are different in kind from those owed to the Aragonan regime of which we remain a citizen. Hence, the intuition that we have no special moral obligation to support the military of Syntaxia even if we were to be residing there when we received the two letters notifying us of the military levies. So long as Aragona remains especially committed to protecting our life, liberty, and property, we remain especially obligated to obey and support it.<sup>256</sup>

Second, the other-regarding conception of justice which the idea of sovereign consent endorses implies that whether an individual owes special obligations of obedience and support to a regime ultimately depends on more than whether the regime protects the individual's fundamental moral rights. From the impartial standpoint of justice, an individual has reason to conclude that any regime that fails to protect the fundamental moral rights of any of its citizens abrogates its claims to special moral obligations of obedience and support on the part of any of its citizens.

It's interesting to consider the implications of bending the idea of sovereign consent back onto the idea of parental consent. In one more instance of the symbiosis that exists between political and parental authority, we should recognize that our previous reflections on the child's natural moral duty of self-preservation might have overlooked the other-regarding dimension of that duty. Indeed, Locke's moral philosophy discussed

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<sup>256</sup> I think we find confirmation for this intuition in the way that just regimes take a special interest in their citizens even when abroad. In much the same way that children can rely on their parents to help bail them out of a tight fix, citizens can rely on their government to make special efforts to protect their fundamental moral rights no matter where they may be.

at length in chapter 3 is an argument for why we should realize that the reasons we have to secure our own self-preservation are also reasons to secure the self-preservation of all beings like us in the morally relevant way. If the natural moral duty of self-preservation also has this other-regarding dimension, then it would seem that parental authority that succeeds in securing the self-preservation of one child may ultimately be nullified *in toto* if the parent fails to secure the self-preservation of all those for whom he or she has agreed to assume parental responsibility. In that sense, it may turn out that we are our brother's keeper after all.

I have tried to describe a version of the natural duty approach to political obligation that can explain the intuition that citizens owe special obligations of obedience and support to particular regimes. The present account with its emphasis on sovereign consent does not depend on the moral force of the subject's consent or the duty of fair play. For that reason, it aims to provide a suitably general basis for political obligation that can nevertheless explain how it is that natural moral duties of justice can lead us to morally distinguish our obligations of obedience and support to just regimes. I do not pretend that satisfying the particularity requirement eliminates all possible concerns with natural duty accounts of political obligation. Nevertheless, the aim of this chapter has been to respond to one prominent misgiving among contemporary theorists, and in doing so to undermine the case for philosophical anarchism.

## ***Conclusion***

This essay has been an attempt to revive the philosophical relationship between parental and political authority. I have tried to demonstrate that bringing the concepts of parental and political authority together can transform our understanding of how authority ought to operate in the family and the state. More specifically, I have argued that thinking about parental authority in the light of political authority generates a revised conception of the duration and scope of parental authority that I call “parental liberalism.” Moreover, thinking about political authority in the light of parental authority generates a revised conception of the moral foundations of political authority that I argue can help address long-standing problems about how to justify general political obligations of obedience to and support for the political institutions of a just regime.

Parental liberalism is best understood as a constellation of views about the limited scope and duration of parental authority, as well as methodological constraints on how we should assess the moral status of children. In chapter 5, I argued that the duration of parental authority is likely to be far shorter than is often realized. Once we appreciate the relatively low threshold conditions that entitle adults to basic moral equality, we must admit the possibility that at least some children are likely to satisfy the same threshold conditions before they reach the conventional age of majority.

Regarding the scope of parental authority, I have appealed to Locke’s argument for religious toleration in distinguishing between those commitments the value of which depends on seeing for oneself the reasons to endorse the commitment, and those that do not. Applying Locke’s argument for religious toleration to the scope of parental authority, I have concluded that there exists an “upper limit” to parental authority that morally

excludes the imposition of authority on children when it comes to moral, aesthetic, and religious commitments the value of which depends on children seeing for themselves the reasons they have to endorse them. In this way, I have argued that parental liberalism is properly distinguished from any form of parental perfectionism, which sets no limit to parental authority exercised for the good of the child.

My analysis of child liberationism in chapter 4 produced two important insights regarding the methodological constraints that should govern our moral assessment of children. The first insight—inspired by Mill’s reflections on the emancipation of women—is skepticism about our ability to assess the natural moral capacities of children. Because we are not in a position to accurately know the natural moral capacities of a child, I have argued that we cannot justify parental authority on the basis of a child’s alleged natural moral deficiencies. The result is a parenting scheme I call “experimental parenting,” in which a parent is morally obligated to extend no more liberty to a child than is necessary to gauge the progress of their moral and cognitive development.

The second insight—also inspired by Mill—is that parents are morally obligated to treat an individual child as the primary object of moral concern. Distinguishing between the epistemic norms that apply to parents and those that apply to social scientists and public policy makers, the parental liberal believes that it is wrong to deny individual children the measure of liberty he or she deserves just because doing so would contradict the generalized findings that psychologists produce and legislators employ. A parent has no excuse not to morally evaluate each child on his or her own terms.

In the final chapter on the moral foundations of authority, I argued that parental liberalism can serve as a heuristic, guiding our efforts to account for generalized political

obligations. After criticizing the voluntarist, gratitude, and fair play approaches to the problem of political obligation, I sought to address the principal problem with the natural duty approach: its inability to account for special moral obligations of obedience and support to particular regimes. My method was to tackle the problem of particularized political obligations by first transposing it to the family. I introduced the notion of parental consent to explain why a child in need of parental care has special obligations of obedience to an adult that has assumed parental responsibility for him. Using my concept of parental consent as a guide, I then introduced the notion of sovereign consent to explain why a citizen may have a special moral obligation of obedience and support to the just regime that first agrees to assume responsibility for the protection of his or her fundamental moral rights. In this way, I emphasized the deep conceptual connections between parent–child and sovereign–citizen relationships.

The details of parental liberalism and sovereign consent aside, my more ambitious goal throughout this essay has been to illustrate the philosophical benefits of denying the historical segregation between explorations of parental and political authority. I believe that broadening the way we think about authority—once again bringing our investigations of parental and political authority to bear on each other—is likely to produce a richer and more interesting conversation about both.

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