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POLITICAL PHILOSOPHY

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1. Europe in the seventeenth century: the political and philosophical backdrop

It was once common to describe the seventeenth century as the period during which modern Western liberalism was born. Scholars have pointed to the emergence and subsequent rise of liberal notions of freedom, equality, individual rights, popular sovereignty, limited government justified by the consent of the governed, and separation of church and state as concepts central to the discourse of seventeenth century political philosophy. But it is easy to overstate this point and, with hindsight, see seventeenth century political philosophy as a series of moments in an inevitable progression toward the Enlightenment and toward the American and French Revolutions of the next century. In reality, the texture of seventeenth century political thought is both more complicated and more interesting than this view suggests. The so-called liberal concepts neither originated in nor dominated seventeenth century political philosophy; many of these concepts have precursors in medieval philosophy, and some of the most important theorists of the seventeenth century advanced views that were decidedly nonliberal (at least in the contemporary sense of the word). This chapter presents an overview of some of the major figures and debates in seventeenth century political philosophy.

To begin, an understanding of the particular historical character of seventeenth century Europe is critical to understanding the political philosophy that it spawned. The Continent witnessed enormous conflict and instability during this time. The roots of this conflict can be found in the previous centuries with the religious schisms of the Reformation and Counter-Reformation, which caused considerable social and political unrest. Although the French wars of religion ended officially with the Edict of Nantes in 1598, tension and clashes between Protestant Huguenots and Catholics continued throughout the seventeenth century, and the edict was revoked in 1685. England, the locus of much of the best-known political theorizing during this period, experienced a series of momentous events, including a civil war culminating in the trial and public execution of the sitting monarch, an interim dictatorship under Oliver Cromwell, the subsequent restoration of the monarchy, and the so-called Glorious Revolution of 1689. Moreover, as the emerging nation-states of Europe wrestled with internal divisions, they were also forced to defend against threats of attack from external enemies. The Thirty Years' War raged on the Continent during the first half of the century, and there was

regular fighting, or the threat of fighting, in and between many of the various countries and provinces in Europe. Periodic episodes of plague, famine, religious persecution, and rebellion were the norm, making life for many in the seventeenth century uncertain in a multitude of ways.

One of the most distinctive features of this period is the high degree of involvement in *actual* politics by the people who were writing and publishing the great works of political theory. Many political theorists worked closely with those who held public office. As a result, they were deeply involved in the controversies of the day. Many were persecuted for their political beliefs; some were imprisoned or forced to flee their countries. Indeed, it is striking just how many of the most important works of seventeenth century political philosophy were written while their authors were in exile or in jail. To give a few examples, Hugo Grotius was secretary and advisor to Johan von Oldenbarnevelt, who occupied something close to the role of prime minister in the Dutch Republic. When Oldenbarnevelt was executed after his rivals gained power in 1618, Grotius was imprisoned. After making a daring escape in a cart of books and dirty laundry, he fled to France and then Germany, eventually serving as the Swedish ambassador to France. Thomas Hobbes was in the employ of some of the most prominent royalist families in England and went into exile in Paris in 1641 when the tide of the civil war began to turn against the king. Hobbes had even made an unsuccessful bid for a seat in the English House of Commons, and though he never actually served in office, he was never far from the debates about English politics. Samuel von Pufendorf composed his first major work of political theory in a Danish prison in 1658–59, and he spent much of his later life as the royal historiographer to the Swedish and German courts. Finally, John Locke was the secretary of the Board of Trade, and participated in the writing of the Constitution of the American Carolinas. Locke was forced into exile in Holland in 1683, and was able to return to England only at the end of the Glorious Revolution.

There is no doubt that the tumultuous political environment in which these thinkers lived influenced the ways in which they approached philosophical questions about the origin, purpose, and limits of the state. Hobbes explicitly acknowledges as much, describing his most famous work as "occasioned by the disorders of our present time" (*L*, "Review and Conclusion" 17). In an important sense, the whole century was *disordered*, precipitating some changes in people's philosophical and political commitments while leaving other commitments unscathed. We can understand their philosophies, at least in part, as efforts both to accommodate disorder and to propose more resilient forms of order. A number of the most striking differences among the political theories of the seventeenth century can be understood in part as disagreements about the root causes of political unrest and how best to eliminate or at least manage it.

The specific philosophical questions asked and the specific philosophical issues engaged were largely products of this particular historical context. The frequent bids for power from competing civil, political, and religious factions meant that at many points during this century, it was unclear *to what degree* and *to whom* one's obedience was owed. As a result, questions about the legitimacy of a ruler's power, as well as the legitimacy of resistance to that power, were at the forefront of political action and political theory. Given this historical situation, it is unsurprising that many of the philosophical debates centered on questions of *political authority* and *political obligation*. Faced with the question, "What is the source and nature of the state's authority (i.e. its *rightful* power to rule)?" one common view held that the power of rulers over their subjects was ordained by God; another suggested that the right to rule could only be derived from the consent

of the people, who were by nature free and equal. Political theorists disagreed about the form government should take (monarchy, aristocracy, democracy, or some combination of these), and they disagreed about whether the state's power of government was subject to any limits, and who, if anyone, was in a position to enforce those limits. Faced with the question, "Why are subjects obligated to obey the commands of the state, and when, if ever, are they permitted to disobey or even rebel against those in power?" some argued for unconditional obedience; others found justifications for disobedience in claims of self-defense, breach of contract, or appeals to conscience. Closely related to these issues were questions about the relationship between ecclesiastical law and secular law, including the matter of religious toleration, which also occasioned their share of dispute.

The answers to these basic questions about authority and obligation were often, though not always, connected in important ways. If God granted a king power, one could plausibly understand the king's power as both absolute and irresistible. But, if the ruler's power derived from the transfer of authority by free and equal people, it seems prima facie more plausible to conceive of that power as limited and the people as entitled to resist or depose their ruler if he violated the conditions upon which this authority had been transferred to him. Defenders of royal power tended to invoke a divine sanction for political rule; proponents of popular sovereignty frequently appealed to a contractual relationship between ruler and ruled in order to justify organized resistance to the king. But political theorists also combined these ideas in surprising and unique ways. For example, some (most famously, Hobbes) used the idea that free and equal people contract to form a government as part of a defense of an extreme theory of absolute monarchy with a strict prohibition on rebellion. In contrast, others used the idea of monarchy as a divinely ordained institution to ground a claim that subjects have both the right and the duty to resist their king under certain circumstances. Many more permutations were espoused, and there were important nuances in – and differences among – the ways in which concepts like "freedom," "equality," and "rights" were used. A chapter such as this cannot hope to do justice to the rich complexity of political thought in the early modern period; however, I aim to give the reader a sense of this complexity as I trace the twin concerns about political authority and political obligation through some of the most important, influential, and enduring political philosophies of the seventeenth century.

2. The divine right of kings

These questions of political authority and obligation come to the forefront in particular because of the waning of notions of God-given authority and the waxing of secular, or at least nondenominational, theories of politics. A natural place to begin, then, is with a theory known as "the divine right of kings" (or sometimes "the divine right theory of monarchy"), which holds that kings are appointed by God to rule over their subjects.[1] As the century opens, the reigning king of England, James I, publicly espouses this theory, declaring in a speech to Parliament that "[t]he State of MONARCHIE is the supremest thing upon earth: For kings are not onely GODS Lieutenants upon earth, and sit upon GODS throne, but even by GOD himself they are called GODS" (James I 1994, 181). Though there are a number of variations on the theme, there are three general tenets of divine right theory. First, *only* the king has the authority to govern; that is, the king has a monopoly on the rightful use of political power. Of course, the king is not personally and directly responsible for every exercise of state power; but those who pass

legislation and adjudicate controversies do so at his pleasure (i.e. all other exercises of state power are either explicitly delegated or legitimate only so long as the king does not object). Often cited as evidence for this proposition is Romans 13: 1–7, which states that "[e]veryone must submit himself to the governing authorities, for there is no authority except that which God has established." This idea was originally put to use in order to refute the claims of clerics that the church has dominion over spiritual matters, and later to establish the supremacy of the monarchy over competing bids for power from its rival in civil society, namely parliament.

The second tenet is that the king is accountable only to God. The king is entrusted with the care of his subjects like a shepherd with his flock, and just as the sheep (either individually or collectively) cannot rightly accuse or punish their shepherd, subjects in a kingship cannot rightly accuse or punish their king. When Parliament finally won the long and bloody civil war in England, they charged King Charles I with treason. At his trial, Charles simply said, "Princes are not bound to give an account of their actions but to God alone" (quoted in Sommerville 1986, 34). He would not recognize the legality or legitimacy of the proceedings, refusing even to enter a plea. Unfortunately for him, his refusal to take the trial seriously did not stop Parliament from finding him guilty and beheading him.

Third, divine right theory is usually taken to include a doctrine of nonresistance, according to which any and all resistance to royal power is wrongful, no matter how incompetently or tyrannically the king behaves. Because the authority of kings is not only likened to but also supposed to be derived from the authority of God, then disagreeing with the king is akin to disagreeing with God, and at the very least shows profound disrespect for God's choice of rulers. The obligations of subjects to obey their rulers are subsumed under their obligations of obedience to God and, like their obligations to God, should be inviolable. James I draws this comparison saying, "That as to dispute what God may doe, is Blasphemie. . . . So is it sedition in Subjects, to dispute what a King may do in the height of his power" (James I 1994, 184). If one's duty to God requires universal submission to all aspects of a king's rule, then the only solution to even the worst tyranny is prayer.

Given how closely royal authority was tied to its divine origin, a common concern was what to do in the event that the king issued an order in direct opposition to a person's understanding of the will of God. This happened quite frequently, given the proliferation of various sects of Christianity with their different and conflicting interpretations of God's will. Some versions of divine right theory deny royal heresy as a possibility; after all, the king is supposed to be God on earth and so cannot act against God. But other versions accept that a king may indeed act heretically and recommend that in those cases subjects disobey the heretical command but only on the condition that they passively submit to the punishment for their disobedience. Almost never was *active* resistance – explicit or organized protest or out-and-out rebellion – permitted.

The theory of divine right was endorsed by various monarchs (who clearly had a stake in the matter) and was presumed to require no corroboration beyond Scripture, but it also enjoyed a few attempts to provide it with philosophical support. The most famous and most valiant of these attempts was written by Sir Robert Filmer in his defense of the royalist cause against the parliamentary rebellion in England. Filmer (1588–1653) intended to discredit the appeals to the natural freedom and equality of mankind, and the contract between ruler and ruled, that were central to Parliament's case against the king. His argument begins with the observation that no person is ever born free

because each was born to a father who ruled him. Relations of domination and subordination (i.e. relations of *rule*) were, on Filmer's account, natural – part of the structures of nature that God had ordained for human beings. Building on these patriarchal foundations, Filmer proceeded to make a case for royal absolutism. The ideology of natural and divinely ordained hierarchies, whether in the family or between social classes, was widely accepted in early modern England, making the starting points of Filmer's argument appear to be particularly familiar and compelling at that time.

Filmer's crucial step was his contention that the rule of a king over his subjects is analogous to the rule of a father over his family; both are aspects of the natural, divinely ordained hierarchy set out in the first book of the Bible. As Filmer reads it, the book of Genesis tells the story of the first instance of political authority – the grant of power from God to Adam to rule over his descendants and to use and control the natural resources of the earth. Armed with the premise that the Bible provides an accurate account of history, Filmer constructed a narrative to explain how Charles I came to possess a godly right to rule England in the first half of the 1600s. He posited that the divine grant of authority to Adam has been handed down by primogeniture through the generations such that any present king enjoys his reign as a result of and at the pleasure of God. Unlike James I, who thought that God *directly* conferred the authority to rule England on himself and subsequently on his son Charles, Filmer held that the divine warrant enjoyed by Charles I was *indirect*. God did not directly appoint Charles to rule England; rather, Charles inherited from his father the right to rule that had been passed down through the generations of English kings.[2]

Filmer's particular brand of divine right theory included a commitment to absolutism modeled on Jean Bodin's famous theory of absolute sovereignty from the sixteenth century. In his widely read work, *Six Books of the Commonwealth* (1576), Bodin argued that sovereignty must be *absolute*; that is, the supreme power in any state must be *undivided* and *unlimited*. The power to make, interpret, and enforce laws is indivisible and so must be held by one body or institution, whether that be a single monarch, an aristocratic council, or a democratic assembly. For Bodin and many who followed him, this entails that sovereign power cannot be limited by a system of laws, because any person or institution in a position to judge whether a law had been broken would itself be the real sovereign. In this respect, Bodin, Filmer, and other absolutists were writing not only against Aristotle, who thought that there could be mixed forms of government, but also in opposition to any theory of limited or constitutional government. Filmer and the divine right theorists were not the only ones to adopt a Bodinian conception of sovereignty, though it suited their purposes especially well.

Because Filmer's patriarchal case for the divine right of kings was the most systematic, reasoned, and influential defense of the position, many of the tracts on political theory in the seventeenth and eighteenth centuries devoted space to refuting it. The most famous and most extensive of these refutations was Locke's; other well-known rebuttals were given by Edward Coke and John Milton. Locke dedicated the whole of the first treatise of his *Two Treatises of Government* to a step-by-step rebuttal of Filmer's view, attacking both the content and the logic of Filmer's argument in a sustained critique. Locke not only rejects what he takes to be all of the major assumptions but also argues that, even if those assumptions are granted, Filmer's conclusions still do not follow. For example, Locke argues that begetting a child does not confer authority over that child, but points out that, even if it did, then the mother would have a claim to rule the child, as well as the father (a thesis clearly incompatible with patriarchalism). Furthermore,

even if the notion of paternal authority were defensible, it would not be inheritable; the eldest son cannot hold power over his siblings because he did not beget them. Locke also takes issue with Filmer's interpretation of the book of Genesis, arguing that God did not grant Adam exclusive title to the earth's natural resources; God gave those resources to all of mankind (a claim that plays a significant role in the theory of property Locke offers in the *Second Treatise*).

In my view, the most interesting part of Filmer's legacy was not his *alternative* to social contract theory but his *critique* of it. Against theories that favored government formed by agreement between naturally free and equal people, Filmer argued that no person was born free from subordination nor had there ever existed a society of free people. His strategy had two parts. First, he insisted that, as a matter of historical fact, there was never a state of freedom and equality, nor was there ever any actual contract establishing a government or actual consent given by those governed to their governors. Second, he accused those who invoked such concepts of hypocrisy; they proclaimed that everyone was free and equal, subject only to that authority to which they voluntarily agreed, while at the same time excluding women and children from the political arena. It is indeed true that virtually all political theorists of the seventeenth century excluded women and children from their analyses, and to the extent that they did engage this issue, they struggled to provide a compelling account of how women and children agreed to their subordination. Filmer pointed out that if they were true to their word, proponents of consent-based theories of government would include *all* people, including women and children, in their analyses, and because they failed to do so, they betrayed their own principles (Filmer 1991, 142). To be sure, Filmer was not making any kind of feminist statement here; rather, he meant the appeal to women and children to serve as a *reductio*, showing that his opponents' views must be false, because following them to their logical conclusion leads to the absurd idea that women and children are equal and so must consent to be ruled.

Writing at the end of the century, Mary Astell, one of the best-known female British philosophers of the early modern period, similarly calls attention to the hypocrisy of contract-based theories of government. Punning on the inclusive and exclusive meanings of the word "man," she asks, "If *all Men are born free*, how is it that all Women are born slaves?" (Astell 1996, 18). Unlike Filmer, Astell arguably *was* making protofeminist claims, and her place in the history of philosophy depends in part on this fact. Even so, her goal was not to argue for women's equal inclusion in political society but to improve the conditions of their lives and, especially, to promote better education for them. Astell is an interesting example of the way in which various and even seemingly incompatible commitments were combined in the seventeenth century; she was a divine right royalist who strongly rejected social contract theory, but she nonetheless made some of the most famous protofeminist claims of the century.

Finally, attention should be paid to the logic of the ideas that form the backbone of divine right theory. Independent of how convincing or unconvincing one might find it, there seems to be a fairly coherent story to be told if one starts with the assumption that monarchs derive their power from God (and thus their power, like God's, is absolute), and one's obligation to those monarchs (like one's obligation to God) requires unqualified obedience and total submission. But whereas Filmer and others linked divine sanction for political rule with royal absolutism and duties of nonresistance, the concepts are logically distinct. To briefly illustrate this, consider two theories that combine the concepts in different ways. First, Philip Hunton, one of the most

articulate and effective defenders of Parliament in its struggles with the Crown during the English civil wars, argued that the coercive power of the state can only be derived from God. But unlike Filmer, Hunton put this claim to use in an overall justification for mixed monarchy, an idea ruled out by the Bodinian absolutism that Filmer adopted. Second, Francisco Suárez, an important figure in the tradition of Catholic resistance theory, invoked the divine origins of political power in order to validate – and indeed encourage – active resistance to particular Protestant kings. Both Hunton and Suárez combined a commitment to a God-given royal prerogative with ideas about the necessity for contractual agreements between rulers and those ruled. Both insisted that the power of kings could only come from God, but instead of seeing this as opposed to ideas about freedom, equality, consent, and resistance, they constructed theories in which the divine establishment of monarchy and the elements of contract theory were not only consistent but also mutually reinforcing.

Filmer's account of divine authority depends on the premise that divine right is necessarily *royal* right, but not everyone shared this presupposition. Many in the more radical Protestant camp accepted the truth of the same biblical passages (e.g. Romans 13: 1–7) about all power being ordained by God, but they rejected the view that God ordained it *via* the king; moreover, they held that the passage is about the source of *all* power, not just monarchical power. For them, Romans left open what *form* of government was appropriate, legitimate, and just. And there have been other attempts to reinterpret the Romans passage and the Pauline doctrine in general. One of the reasons divine rightists like Filmer argued for the grant of sovereignty to Adam and for the centrality of patriarchy was to answer the challenge that God did not ordain any particular form of government. However, this claim did not originate with Filmer or the seventeenth century; the question of whether God had granted sovereignty, or rather dominion, to Adam was hotly debated by William of Occam, Marsilius de Padua, and others who were engaged in the Franciscan poverty debate in the thirteenth and fourteenth centuries. In the end, then, the notion of a divine sanction for political rule turns out to be a somewhat promiscuous idea, used with equal ease in service of radically different and opposing ends. Its usefulness and persuasiveness waned in the face of disagreements about the nature of the divine, disagreements whose intractable nature became more and more evident in the course of the seventeenth century.

Whatever its philosophical merits or shortcomings, the theory of the divine right of kings played an important role in the development of early modern political thought, and the various ways in which it was rejected played a role in the development of late modern political thought. It also played a central role in persistent political controversies in England about the status of the monarchy and the future of the Crown. Obviously important in the context of the civil wars of the 1640s, notions of the divine right were revived, albeit temporarily, during the restoration of the monarchy with Charles II in 1660; but though the monarchy has endured in England since the Restoration, English kings and queens since the Glorious Revolution have never again claimed anything approaching the power of God. In France, appeals to monarchical divine right persisted into the eighteenth century, when they were invoked as a political claim by King Louis XIV and forcefully defended as a theoretical position by French bishop and theologian Jacques-Bénigne Bossuet. But the doctrine of divine right was critiqued in France during the Enlightenment and eventually abandoned with the French Revolution.

Thus, the seventeenth century was the beginning of the end for the theory of divine right. Although political theorists, most notably Pufendorf and Locke, built a minimalist

notion of God (and thus, the notion of a divinely structured order) into their theories, these theories nonetheless represented a shift toward a secular notion of political authority that gained force throughout the early modern period. Growing religious divisions and profound scientific discoveries made it increasingly difficult to defend any position, political or otherwise, on the basis of purely theological premises. Interpretations of Scripture and confessional doctrines were the source of a great deal of violent conflict and could no longer support a stable, publicly shared conception of political legitimacy.

3. The birth of modern social contract theory

The impossibility of establishing a shared religious basis for political authority and obligation opens up a number of fundamental questions in political philosophy. If the authority to rule over others does not come from God, then where does it come from? If the obligation that people have to obey those in charge cannot be reduced to or explained by some higher obligation, then how do they come under that obligation at all? And if the natural condition of man is not one of subordination, then what is it?

The idea that government is a product of the voluntary agreement of the governed, deriving its authority from a contract or some other form of consent, arguably has a history as old as Western political philosophy itself, having been suggested by Glaucon in Plato's *Republic*, as well as by Epicurus. Indeed, notions of consent trace their roots back to Roman law. But the "modern social contract tradition" is usually thought to originate in the seventeenth century and claims, as its most famous proponents, two seventeenth century philosophers: Hobbes and Locke.[3] This tradition is set apart from its predecessors by its use of the following concepts and strategies. First, social contract theorists reject the idea that political authority is naturally or divinely ordained, instead positing that people are naturally free and equal. Second, given that this is the case, the agreement to be ruled – which is secured when would-be subjects enter into some sort of contract, or give their consent in some other fashion – provides the *only* legitimate source for a system of political power. Finally, political authority and obligation are thus conceived from the "bottom up," as opposed to the "top-down" approach of divine right. In spite of these shared concepts and strategies, however, each theorist spelled out the details of such a contract, and what kind of government would result, differently.

In this chapter, I focus primarily on four of the most significant, most systematic, and most philosophical proponents of seventeenth century social contract theory – Grotius, Hobbes, Pufendorf, and Locke. I conclude with a brief discussion of Spinoza, whose place in the social contract tradition is contested.[4] Part of my goal is to show how these theories can be fruitfully understood in light of the century's increasing religious and cultural discord, and in response to failed attempts to base political authority and obligation on contested principles, theological or otherwise.[5] Furthermore, in focusing on the work of four main theorists, my primary interest lies in developing the *philosophical* relationships among their respective accounts of the social contract. Although we will see that there are significant and extensive differences, it is worth highlighting first their common structural and methodological starting points.

Early contract theorists were concerned with two key questions; namely the *origin* and the *limits* of political authority and obligation. They also shared a basic methodological approach to these questions. In broad terms, social contract theorists start with a picture of human nature (described partly in terms of principles of natural law or natural right) and from there derive claims about what human life would be

like without government – that is in some kind of natural, or precivil, condition, usually called a "state of nature." They conclude that this would be unpleasant, impoverished, perhaps even violent, and therefore – they argue – people would take action to escape it by agreeing to institute a government. Social contract theorists then tend to ask, "In that context, what kind of government would people agree to form?"; "What natural rights could or would people give up in such a contract?"; and "Given such an agreement, could resistance or rebellion ever be legitimate?" Theorists provide widely divergent answers to these questions, and these answers determine what each thinks about the nature and limits of political authority and obligation. Thus, all of the theorists develop different versions of the same theoretical elements, namely (1) a conception of natural law and right, (2) a conception of the state of nature, (3) a conception of the social contract and the move to civil order, (4) an account of the proper form or forms of government, and (5) implications for the duties of government and for rights of resistance.

Seventeenth century social contract theory can be seen as a series of attempts to provide political theories derived from principles that did not presuppose controversial or contested moral or religious ideas and could therefore – in principle – be rationally acceptable to all. This feature is one of the most philosophically important aspects of the modern social contract tradition, and it is part of what makes the seventeenth century so significant from the point of view of the history of political theory.

Hugo Grotius (1583–1645) is a logical starting point for this discussion, both because of his chronological precedence and because of his influence over subsequent seventeenth and eighteenth century writers.[6] Grotius is widely credited with one of the most crucial shifts in the emergence of social contract theory and the modern theory of natural law. He is best known for his contributions to debates about the relations *between* states, what Grotius and his contemporaries called the "law of nations" and what we now know as international law and international relations.[7] Nevertheless, in his account of political relations *within* the state, Grotius addressed the twin questions of political authority and obligation that would come to define subsequent contract theories.

The Grotian project begins with an account of the law of nature, conceived as the set of principles that are true for all peoples at all times.[8] For Grotius, these universally valid principles could be identified by examining human nature. Human beings, like all other beings, desire self-preservation. Human beings also desire to live in a peaceful and rational social order.[9]

Self-preservation is broadly construed to include things that promote or protect physical survival, even if they are not strictly necessary for it, so it is perhaps more accurate to speak of advantage or self-interest. For Grotius, the claim that we desire our own preservation and advantage is both a descriptive and a normative claim. He believes it is uncontroversial not only that people *do*, in fact, behave in these ways but also that by nature they are *allowed* to seek their own advantage. But self-preservation has ultimate priority, so that one is permitted to put one's own advantage before the needs or interests of others, especially when it is a matter of life or death. Thus, he holds that people are allowed to seek their own advantage as long as they do not unnecessarily injure others; they are permitted what Grotius calls "the pursuit of innocent Profit" (*DJB* II.II.2). By nature, he claims, we are subject to moral rules and principles: not to steal from others, to provide restitution if we do, to keep promises, and to impose punishment when it is merited. However, although we are obligated not to hurt or steal from others (unless our lives depend on doing so), he does not claim that we have natural obligations to *assist*

others in their pursuit of self-preservation. That is, there are no natural duties of mutual aid. Grotian natural law, then, is constituted by both permissions and injunctions; we are permitted to seek our own advantage but we are obliged to do so only in a certain way. Moreover, when these rules are violated, nature calls for such wrongdoings to be avenged.

Grotius made two important and innovative claims on the basis of his initial picture of natural law. First, he framed key components in the language of *natural rights* and developed natural rights in connection with his account of man's natural desires. On his view, we have natural rights to self-preservation and to pursue "innocent Profit." We also have natural rights not to be injured by others, and to demand restitution or inflict punishment on those who violate our rights. Historically speaking, such language is now so familiar that it is easy to overlook the degree of conceptual innovation involved. Very briefly, according to the medieval view, one could only speak of right actions or "the right"; one could not see *rights* as powers that individuals have. In contrast, though he used the term in a wide variety of ways, Grotius developed the more familiar view that rights are moral powers that people can possess.[10] These powers provide moral permissions and responsibilities, and they are the kinds of things that could be retained or given away. Importantly, rights hold independent of states; they are not granted by states. Although there are precursors to this conceptual shift in Suárez, Vitoria, and others, Grotius is often credited with giving the first account of rights as we know them now.

His second innovative claim concerned the metaphysical and epistemic status of natural law. As we have seen, Grotius argues that the principles of natural law (and, for him, natural rights) are determined by human nature and discoverable by means of a rational examination of human nature as such. They are "*the Rule and Dictate of Right Reason*" (*DJB* I.I.X.1) and are "engrafted in the minds of all."[11] This means that the same principles he identifies can and would be affirmed by anyone else who conducts such an examination. But, crucially, Grotius also claims that the principles of natural law *are in fact* agreed upon. For Grotius, then, the agreement is not only hypothetical but also actual (if implicit). So, for example, with regard to the priority of the right of self-preservation, he says that Christianity might oblige people to sacrifice themselves, but no one (presumably Christians included) would claim that natural law itself demands such actions (*DJB* I.II.VI.2; Tuck 2005, xxii.). Moreover, he makes it clear that he is offering an account of natural law as agreed upon by all nations and peoples, irrespective of religion, creed, and other beliefs (e.g. *DJB* I.II.III). These claims are important in the context of his endeavor to provide a basis for international law; such a system could not be dependent on the doctrines, beliefs, or values of any particular culture or region. Both the Dutch and the Indians should, by force of rational consideration, accept his principles, and, further, they actually do.

Grotius's strong universal-agreement view is present elsewhere in his writings. First, Grotius took his opponent to be Carneades, the famous skeptic (and he presumably took himself to be victorious against this opponent).[12] This shows that he sees his account as impossible to reject, even for the most skeptical of skeptics. Second, Grotius holds that the principles of natural law would be true even if there were no God or if God did not concern himself with human affairs. This last claim is one of the most infamous in his vast corpus of writings on political theory, and he retreated from it in later editions of his work. But the point remains: Grotius took the principles of natural law or right that he set out to be *acceptable* and, even more significant, to be *accepted* by everyone

capable of rational thought. And a large part of why he held this to be true is that his principles were deliberately thin, meaning that he intentionally made their content rather sparse. It is no wonder that Richard Tuck, one of the best-known contemporary writers on Grotius, talks about his "minimalism" (Tuck 2005, xviii). In order to appeal to the widest possible audience, Grotius is trying to lay a foundation that depends on as few premises as possible, a sensible strategy given the deep and widespread disagreements that characterized seventeenth century political life.

The conception of natural rights as powers or entitlements that are transferrable allowed Grotius to construct a novel explanation for the origin of political authority. People give up their natural rights in an act of voluntary consent in order to form a government.[13] The question of whether *all* natural rights are transferrable, or only some of them, is one that Grotius also considers. In his view, the entirety of one's natural rights can be transferred, giving a government absolute and indisputable power over its subjects; he reasons that communities of people, like individuals, can thus voluntarily enter conditions of slavery (*DJB* I.III.VIII.1). He does not claim that governments *must* be constituted along these lines, only that it is possible and has, in fact, occurred. However, there are points where Grotius seems to waver on these issues. With regard to both tyranny and necessity, he states that natural rights were either not given up or somehow returned to peoples or individuals. Specifically, he says that people living under tyrannical governments cannot be supposed to have consented to such rule and that, in conditions of necessity (e.g. starving, imminent death), the natural right of property is restored. So, people are allowed to steal and so forth if they need to do so to save their lives (*DJB* II.VI.V). But the passages in which he makes these claims are in tension with his general claim that all rights are transferrable and people can rightfully enslave themselves. Moreover, Grotius advocates monarchy and denies that rulers have obligations to their subjects. He does encourage rulers to treat their subjects well and describes those who do as "praiseworthy," but he denies unequivocally that there is a right of resistance (*DJB* I.IV.II). Regrettably, he never renders this denial consistent with his remarks on tyranny and necessity.

Grotius, then, developed some of the most fundamental and eventually most widely held elements of social contract theory – individuals as the bearers of natural, or prepolitical, rights; the authority of the state as a product of a willful transfer of those rights – but it was Thomas Hobbes who took those ingredients and developed them into a fully fledged theory. Hobbes is not unreasonably thought of as the father of modern social contract theory, but his debt to Grotius should not be underestimated.

Influenced by the new science, Hobbes (1588–1679) took it upon himself to create a science of politics. He set out to produce a geometric-style proof that his theory of the state was correct (*L* 4–5; Jesseph 1996, 86–107). He describes feeling awed by his encounter with the proof for the Pythagorean theorem: he was attracted to the idea that if one accepts the definitions and axioms with which one begins, one could derive (using deduction) a conclusion not susceptible to logical rejection (Martinich 2005, 6; Grant 1996, 111). Although political philosophy (unlike geometry) does not admit of valid deductive arguments for any interesting conclusion, Hobbes intended to convince people of the truth of his conclusion by offering a theory that began with uncontroversial starting points and proceeded as logically as possible. It was necessary because he knew his conclusion – that absolute monarchy is the best form of government, and that subjects are permitted to disobey only under the rarest of circumstances – was one that people would want to reject.

The Grotian influence is evident in Hobbes's starting points, as well as his method. Beginning with a general claim about human psychology, namely that there is a natural impulse to avoid death (comparable to the force of gravity), he infers that it would be particularly unreasonable to blame people for acting on it (*DC* 1.7). Thus, people have a natural right to seek self-preservation. Hobbes describes this, saying,

> The Right of Nature, which writers commonly call *jus naturale*, is the liberty each man hath to use his own power, as he will himself, for the preservation of his own nature, that is to say, of his own life, and consequently of doing anything, which in his own judgment and reason, he shall conceive to be the aptest means thereunto.
>
> (*L* 14.1)

The "liberty" in this case is a freedom from blame, a moral permission. And the claim that people naturally have such a moral permission is, for Hobbes, a claim that no one could reasonably reject (Lloyd 2009).

Natural law, the corollary to natural right, Hobbes defines as a dictate of reason requiring each person to preserve herself. In this way, Hobbes represents the most decisive break with the Scholastic natural law tradition. He rejected the Scholastic-medieval-Aristotelian conceptions of natural law, with their theological and teleological views of the universe. Starting from a materialist, mechanist metaphysics, he thought that the nature of reality was no more than matter in motion and the principles therein, and hence human behavior was no exception. He famously denied the existence of a final or highest good (*summum bonum*) for people, instead claiming that the greatest we can hope for is the satisfaction of desire after desire, ceasing only in death. There are places in which he references connections between natural law and divine law, but Hobbes's canonical and foundational formulation of natural law bespeaks a clear secularity – namely it is

> a precept of general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life or taketh away the means of preserving the same, and to omit that by which he thinketh it may be preserved.
>
> (*L* 14.2)

Because Grotius was severely criticized for suggesting that natural law might be true even if there were no God, it is unsurprising that Hobbes was charged with atheism, a charge that followed him his entire life.[14]

In the state of nature, then, even people who lie, steal, or attack others do so "with right," as long as they sincerely believe that doing so contributes to their self-preservation. But because Hobbes's account of what that right means is limited – it simply grants permission and removes blame from the actor – it does not give others any corresponding obligation to respect it. Indeed, according to Hobbes, there can be no obligations at all in the state of nature. For him, obligations can only arise from a covenant or contract, and there can be no covenants or contracts without an external authority to enforce them, and it is precisely the absence of this kind of external authority that defines the state of nature as such. This reflects another contrast with Grotius: for Hobbes, all obligations are contractual whereas, for Grotius, some obligations come from natural law. Moreover, Hobbes explicitly rejects Grotius's claim about natural sociability, even in

the minimal form Grotius gives it. Indeed, Hobbes offers an extended argument for the fundamental differences between humans and naturally social animals, bees and ants. It is not that Hobbes thinks that people are naturally *anti*social, *per se*; rather, for human beings, social interaction is not something that comes easily or without great cost and effort. Unlike Grotius, Hobbes does not include a desire to live in a peaceful, rational social order with others as a fundamental part of human nature; in fact, he suggests that, to the extent that natural individuals want contact with one another, such contact is motivated by a desire to compete, rob, dominate, or exterminate the other.

A central part of Hobbes's account of human nature is the claim that people are more or less equal, at least in the sense that no person is so much stronger or smarter than another that they can entirely dominate them or enjoy safety from the attempts of others to dominate them in return. As a result, the state of nature is frightening and violent – a state of war. But the condition of war is not a condition of constant fighting; rather it obtains when there is a "known disposition" to fight (*L* 13.8). This known disposition is ensured by the fact that what Hobbes calls "anticipation" (preemptive strike) is a rational strategy, even for those who prefer to be left alone – the "diffident," as Hobbes calls them (*L* 13.4). As a result, the inhabitants of the state of nature cannot rely on future stability or security and must be constantly ready to defend their lives and property; in that context, there is no point trying to pursue long-term projects; make complex tools or objects; or do any of the things that provide comfort, improve standards of living, or create wealth. Hobbes famously declares that human life in the state of nature is "solitary, poor, nasty, brutish, and short" (*L* 13.9).

Because the state of nature is antithetical to self-preservation, people will, according to Hobbes, be desperate to escape from it; and the way they do this is by agreeing with one another to institute a sovereign to rule over them and provide the peace and security that is impossible in their natural (i.e. precivil) condition. The goods of safety and hope for a more contented life are only possible if people give up their natural rights and authorize a sovereign to rule over them. The social contract is how this happens. It is a contract of each with all; the sovereign is not a party to it.

According to Hobbes, the sovereign instituted by the social contract is unlimited and undivided – that is it is absolute in the Bodinian sense. Thus, first, the people's authorization of the sovereign is total, meaning that he cannot be judged by, or held accountable to, any other person or body. Second, the sovereign power must also be entirely unified, because divisions give rise to discord or disagreement. For Hobbes, limited and divided government serves to invite the causes of social unrest. Hobbes also argues that monarchy is the most desirable form of government, but his argument here is a pragmatic, not a principled, one. Like Bodin, however, he accepts that other forms of government, such as democracy and aristocracy, can be relatively effective as long as they are absolute and undivided. Finally, the fact that unlimited authorization need not – and in Hobbes, does not – necessitate unlimited political obligation is crucial for appreciating the nature of Hobbes's social contract theory.

For many subsequent contract theorists, the importance of consent in authorizing and legitimizing government implied that government remained accountable to the people, whose consent could, at least in principle, be withdrawn. It is therefore striking to modern eyes that a social contract theory grounds a justification for unlimited, undivided monarchy, and it is equally surprising that it was used to undercut the possibility of justifying rebellion. However, Hobbes rules out any possibility of a legitimate *collective* resistance to a sitting monarch, or to any established government. Attempts at

rebellion, he argues, are not only prohibited by the social contract, but perhaps equally significant is the fact that they are pragmatically foolish, even if they are successful (*L* 15.4–9). Indeed, Hobbes famously claims that any government is better than no government on the grounds that political dissent or discord, by destabilizing the conditions of the social contract, risks a return to state-of-nature-like conditions (*L* 18.20).

It might be thought that Hobbes's position on *individual* resistance would be similarly unequivocal, given that the social contract places no limits on the authorization of the sovereign. However, he allows that in certain rare circumstances, subjects do have rights of resistance. The starting point is that subjects retain the right of self-defense, so that if one's life, person, or liberty is endangered, one may resist – even if the threat comes from the sovereign himself. As a result, prisoners facing capital punishment have the right to fight their captors. Hobbes expands this right to include the right to resist punishment more generally (for yourself and particular loved ones) and the right to refuse to go to war (*L* chs. 14 and 21).

Although Hobbes himself is less than clear on what basis these rights are retained, it is possible to reconstruct an argument for why – on his account – these extended resistance rights make sense. Each person's obligation to obey the sovereign is limited by the very reasons they agree to submit themselves in the first place, namely to protect their life, limbs, and property. Though the sovereign power is not limited, according to the Hobbesian social contract, the extent of each subject's *obligation* is, and must be. In the end, though, Hobbes is able to admit these rights only because doing so will not pose a risk to the stability of the commonwealth. They are mere permission rights and confer no obligation on others to respect them; the condemned man may fight back without injustice, but he is unlikely to escape the scaffold (Sreedhar 2010).

Critics – in Hobbes's time and now – have taken issue with virtually every step in his argument. Notable criticisms include the charge of atheism, the picture of human nature as seemingly (inherently) selfish and atomistic, the justification for absolute monarchy, the coherence of Hobbes's retained rights, his response to the fool, and on it goes. Pufendorf and others have criticized Hobbes for mischaracterizing human nature and for ignoring the inescapable social element of human existence. Locke gives a convincing argument that Hobbes was wrong to think that the best way to escape the state of nature was to give up (almost) all of one's rights to an absolute monarch. Locke charges that it would be foolish to subject oneself to the whims of a lion when one's natural enemies are foxes and polecats, whom one is much better suited to handle. Locke also points out the corrupting nature of vast power concentrated in a single individual or institution, pointing to history as a guide to what happens when rulers are given the amount of power Hobbes recommends. Contemporary scholars and readers throughout the ages have raised these points and others and Hobbes has earned a significant place in the canon of the history of political thought, though his place is usually that of a foil – an interesting and provocative foil, but a foil nonetheless.

Samuel von Pufendorf (1632–1694) is, in many ways, a victim of the contingent and occasionally arbitrary ways in which the Western canon took shape. He was a dominant intellectual figure in his own time – indeed, his *On the Duty of Man and Citizen* (*DOH*) was the standard textbook of natural law for a century after it was published[15] – yet, much like Grotius and *unlike* fellow contract theorists Hobbes and Locke, Pufendorf rarely finds a place on contemporary reading lists for the history of political thought.[16] Despite his failure to maintain a more notable place in the standard canon, Pufendorf is a crucial figure in understanding the arc of social contract theory in the seventeenth century.[17]

Certainly, he studied both Grotius and Hobbes and directly responded to them, accepting some of their claims, refuting others, and modifying or trying to improve on various aspects of their theories. He was also read by Locke and influenced him greatly.[18] For the purposes of this chapter, it is useful to concentrate on a few of Pufendorf's most significant contributions to seventeenth century political thought: (1) his insistence that natural law both depends on God and the foregrounding of human sociability; (2) his longer, more complex, and more sophisticated account of human life without government, which distinguishes *precivil* life from *presocial* life; (3) his employment of a two-stage contract, whereby people first agree to form a political entity and then the political entity institutes a government (a device that is taken up and further developed by Locke); and (4) his argument that, though government *can be* absolute, it *should* be limited as to prevent abuses of power.

Understood against the background of Hobbes and Grotius, one of the most notable differences is that Pufendorf gives a primacy of place to a voluntarist God in his theory of natural law. Whereas Hobbes's description of natural law does not include God, and Grotius asserts that natural law would be true in the absence of God, Pufendorf grants God a central role in the story. But, Pufendorf does not intend that this move be a *partisan* one. Although it might seem like including God contradicts the idea of a secular basis to avoid doctrinal differences, Pufendorf's God is minimal.[19] Nevertheless, God is needed to make natural law genuinely law, because laws are defined as rules propagated by someone with the authority to make rules and attach punishments and rewards to them (*DJN* I.6.9). According to a then-dominant (and still familiar) account of law, the very existence of law presupposes a *lawgiver*, to create and bestow it with authority.[20] Pufendorf agrees that if there exist natural laws, there must be a natural lawgiver, and the only appropriate candidate is God (*DOH* I.2.6). He also has a doctrine of positive law, in which the lawgivers are people. Moreover, we know that there are natural laws by the "natural light" of "any adult of sound mind"; in general, Pufendorf thinks that the principles he gives about human nature, and what follows from those principles, are self-evident, given how God created our minds (*DOH* I.1.4; I.2.4). Whereas Pufendorf's metaethics is a voluntarist one, he maintains that there are three fundamental types of duties – duties to self, duties to others, and duties to God.

In addition to this divine component, Pufendorf's account of human nature and the laws associated with it give primacy of place to a strong conception of human sociality, the desire and need to come together to live in some socially organized way. The idea of inherent human sociality is one that Hobbes adamantly denied. Grotius acknowledged it but conceived of it in minimal terms: we have natural duties not to hurt or steal from each other unnecessarily, but there are no natural duties of mutual aid or cooperation. Yet Pufendorf argues that human sociality is such that it gives rise to a wide and meaningful set of natural duties to others; although he recognizes the centrality of the desire for self-preservation, he claims that the "fundamental natural law is: every man ought to do as much as he can to cultivate and preserve sociality" (*DOH* I.3.9). Subsequent natural laws prescribe those things that lend themselves to peaceful and cooperative social life and forbid those things inimical to it. Central to this line of reasoning is the idea that human beings are weak and dependent (*DJN* II.I.8). Fulfillment of even their most basic needs for survival requires interpersonal cooperation and association.

Given the primacy of place afforded to sociality, it is unsurprising that Pufendorf's account of the state of nature is much richer than his predecessors', both in substance and in quality. Not only do we learn more details about the state of nature in Pufendorf,

but the details he provides leave the reader with a far more appealing impression than, for example, Hobbes's state of nature as a war of all against all. This comes out in stark relief when one juxtaposes their respective views on strangers in the state of nature; Hobbes insists that strangers are enemies (every person is enemy to every other person); Pufendorf explicitly denies Hobbes's claim, instead characterizing strangers as "friend[s] we cannot wholly rely on" (*DOH* II.1.11). He posits the existence of interpersonal relationships and small group associations that can exist in precivil life, including both families and master-servant relationships. In his reconstruction of the hypothetical (and semihistorical) narrative of state formation, Pufendorf describes the male heads of households coming together to form a government. A number of things are assumed in this discussion. First, that there are households in the state of nature; Pufendorf thinks that women voluntarily subordinate themselves to men in marriage (and that the institution exists outside the state) and so their children will be under the rule of the father. There are also servants, or wage earners, who can contribute to the growth and flourishing of households. Patriarchal families can provide a number of goods – a limited amount of security, cooperation, division of labor, and so forth. Aware of their weakness and mutual interdependence, people voluntarily act in ways that fulfill their natural social tendencies without the imposition of coercive measures. In other words, in Pufendorf's picture there are substantial voluntary associations that form "naturally," and all are based in contract and consent. If those associations are sufficiently small and recourses are sufficiently available, no state is needed.

However, in his reconstruction of human history, Pufendorf says that eventually there will be a need for more security than such small households can provide. In large part, his argument rests on the idea that although people have more substantive natural duties of sociality, they cannot be trusted to fulfill them, even with the threat of God's punishment. Consequently, they need both a state and the prospect of temporal sanctions for trespass. Marriage, households, property, and commerce are all possible without civil laws, though the latter two might not be as efficient as they are in a state. But it is not all rosy. People cannot be trusted to follow natural law, even though it is dictated not only by God but also by reason. Some people are simply wicked, others are lazy; and even those who desire to follow natural law might not always have the knowledge or inclination to do so. As a result, they need sanctions of the kind that can be provided only by a government. Moreover, there are coordination problems. The state, then, is needed for security. Families and households can provide food and basic goods, but, ultimately, security and a stable, lasting peace require civil institutions (*DOH* II.5.8–9; *DJN* VII.2.7–8).

Pufendorf's idea of the social contract itself is also more complex than his predecessors, and it serves as a precursor to the Lockean social contract. In his account, the social contract consists of "two agreements and one decree." For Hobbes, the idea that there could be a political entity without a sovereign was incoherent. The unity of the commonwealth was provided by the unity of the sovereign. Pufendorf and Locke following him saw that individuals in the state of nature could be thought of as forming a political unit and then deciding on a particular form of government. According to Pufendorf's account, there is an agreement of the heads of household – each with every other – to form a "single and perpetual union [in order to] administer the means of their safety and security by common counsel and leadership" such that they become "fellow citizens." There is then a decree on the form of government, which is determined by majority vote, followed by a second agreement in which the particular ruler or rulers are granted

authority. The ruler(s) "bind" themselves to provide for the common peace and security and the ruled "bind themselves to obedience" (*DOH* II.6.7–9; see also *DJN* 7.2.7). The voluntarist foundation of covenant in Pufendorf's account means that it is up to people to decide for themselves which form of government they wish to implement. He expresses a preference for monarchy but allows that aristocracy and democracy can be legitimate forms of government, as long as state power is supreme and undivided. Divided, mixed, or balanced governments are "irregular" states, to be avoided if at all possible (*DOH* II.8.12; *DJN* 7.5.12–15).

No matter its form, however, government is "unaccountable" to its subjects, and Pufendorf denies the legitimacy of political resistance, urging those living under harsh political rule to patience; the "severity [of sovereign authority] must be patiently borne by citizens in exactly the same way that good children must bear the ill temper of their parents" (*DOH* II.9.2–4; see also *DJN* 7.8.4–6). So, although Pufendorf gives an extended discussion of the duties of sovereigns to rule well, he provides little recourse if they fail to do so. Pufendorf accepts the Hobbesian idea that sovereignty must be unified (i.e. undivided) and supreme; he rejects the idea that it must be unlimited. In fact, he argues in favor of limitations of government power. Those limitations, however, do not, on Pufendorf's account, license rebellion; and, in this sense, they are similar to the duties of the sovereign to rule well. Finally, like Grotius, Pufendorf both seems to recognize a right to resistance in rare, extreme circumstances of tyranny and fails to reconcile this exception with his more general claims about the supremacy of sovereign power and the requirement of obedience to "severe" governments.

Influenced by the works of Grotius, Hobbes, and Pufendorf, John Locke (1632–1704) offered what is plausibly seen as the most famous (and well-liked) social contract theory of the seventeenth century. It was Locke's ideas (or, more specifically, how Locke's ideas were taken up by his later readers) that so influenced the French and American Revolutions. Most famous are (1) his account of the naturalness and inviolability of private property rights and (2) his arguments for the necessity of limited government and the existence of a right of revolution again governments who transgress their limits.

In keeping with the traditions in which he was writing, Locke's political philosophy begins with an account of natural law and natural rights. According to Locke, natural law requires that people pursue not only their own self-preservation but also the preservation of their fellow human beings. Preservation is understood broadly to include "life, health, liberty, [and] possessions." Like Grotius, he gives lexical priority to one's self-preservation; the duty to preserve others is contingent upon it not endangering one's own preservation. So, I have a duty to help you preserve yourself but not if doing so endangers my own preservation. It is not exactly clear how much we should make of this caveat, because circumstances in which multiple individuals' self-preservation are mutually exclusive occur only rarely. Nevertheless, the claim is foundational to Locke's view; natural law permits me to hurt you or steal from you but *only* if doing so is necessary to save my own life or is punishment for violating natural law. Otherwise I am obligated to aid in your preservation with the emphasis being on people's natural rights to life, liberty, and property.

A basic premise in Locke's account of natural law is the claim that people are God's creation. He says,

> For 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.
>
> (*Treatise* 2.2.6)

The "made to last" phrase is key. God made me and so he (and not you) gets to decide how long I get to last. That is why you are not allowed to kill me; it is not your decision (you do not have standing to decide when my life ends). Locke invokes the idea that we are creations of God to explain why it is impermissible to sell oneself into slavery – a person is not his own to sell; he is also the property of God. Were someone to sell himself into slavery, he would be selling something that did not entirely belong to him (*Treatise* 2.2.2).

The Lockean state of nature is a state of equality and a state of liberty (within the guidelines of natural law), but it is not a state in which people would wish to remain. Locke denies that it is equivalent to a state of "war"; rather he claims that it is, as he says, "inconvenient." Three things account for the inconvenience of the state of nature: the lack of a publicly known set of laws, the absence of fair and unbiased judges, and the lack of enforcement power. Although a substantive natural law exists – one that requires each to respect and promote one another's natural rights to life, liberty, and property – this is insufficient to ground a tolerable or prosperous social order. Locke's natural law is quite general, and people need more specific rules in order to engage in peaceful and productive social cooperation. In many cases, people can have differing interpretations of what natural law requires and whether it has been violated. Because people tend to be biased in favor of themselves and they are not always rational, it will be difficult if not impossible to adjudicate disputes over natural law. Finally, because everyone has the power to enforce natural law and punish what they see as violations of it, there cannot be an institution with a monopoly on enforcement power, which for Locke is a necessary condition for peaceful and orderly social life. It is clear that the three inconveniences Locke identifies in the state of nature are solvable by civil institutions; in fact, they are precisely the things with which the state is created to deal. The state provides publicly known specific laws for people to follow, appoints fair and unbiased judges to adjudicate disputes, and enforces the rulings of those judges.

On Locke's account, the emergence of the state is a two-stage process. First, people in the state of nature, recognizing the inconveniences of their condition, agree to come together to form an independent political entity, the commonwealth. This agreement must be unanimous. Then, by majority vote, the members of the commonwealth authorize a particular government (Locke recommends a constitutional monarchy with a parliamentary legislature). The commonwealth entrusts the government with the power and right to enforce natural law. Crucial to this picture is the idea that if the government fails in its duty, the people – the commonwealth – can revoke its grant of authority. In turn, this serves to ground a right of revolution. For Locke, government is empowered for the sake of the protection of natural rights and the enforcement of natural law, and it is limited by the scope of that empowerment. If it exceeds that mandate, its acts are no longer justified or legitimate. Locke recognizes that, in any given case, it is impossible for people to know whether natural law has in fact been violated or whether the government has actually exceeded its mandate. In that case, he admits that "the only appeal is to heaven," meaning God is the ultimate judge. This epistemic uncertainty is inescapable and makes it the case that people can never be sure in any given situation whether or not their revolution is justified. But they must nevertheless act in the face

of that uncertainty, and one of the most enduring aspects of Locke's legacy is simply the fact that he institutionalizes a right of revolution. Finally, imposing taxes on the people without their consent constitutes a paradigmatic violation of Lockean natural law (it fails to respect people's natural right to their own property) and so can also ground a right of revolution. In light of Locke's particular views on the limitations of the state and his account of the proper response to possible transgressions of those limits, it is unsurprising that the revolutionaries of the eighteenth century found Locke's theory to be so appealing.

As we have seen, seventeenth century social contract theory emerged in large part as a philosophical response to the very real and immediate political problem of *difference*, and ensuing problems of conflict and intolerance. Although the political landscape had shifted, somewhat, by Locke's time, the sense of urgency remained. Thus, no account of Locke's *political philosophical* project and its place in contract theory is complete without a brief discussion of his very famous views on religious toleration.

After the restoration of the English monarchy and the Church of England in 1660, a new series of measures called the Clarendon Code were passed. These provided for the enforcement of an Anglican religious orthodoxy by requiring Anglican Communion of all municipal officials, by compelling the use of the Anglican prayer book, the *Book of Common Prayer*, by preventing the assembly of dissenting religious groups, and by forbidding nonconformist ministers from coming within five miles of incorporated towns or teaching in their schools.[21]

Locke's general claim is that religion cannot be the justification for or basis upon which the force of law may affect one's civil interests (life, liberty, and property) – "the religious sphere" of one's life (concern for the salvation of souls) is given completely over to "churches."[22] Thus, in the same way that the civil magistrate has no jurisdiction over one's *spiritual* interests (e.g. interests in salvation), churches have no jurisdiction over one's *civil* interests. Nor, he contends, can states legitimately use their power (the force of law) to coerce religious belief or practice.

Locke gives a number of arguments for the strict separation of church and state, some directed at Christians in general, some at what he calls "zealots," some at magistrates, some at established churches, and some at individuals. *A Letter Concerning Toleration* consists in a series of such arguments, and though some are tailored to one audience more than another, there are recurring themes. First and foremost, he emphasizes the *impossibility* and *irrationality* of coercing genuine religious beliefs. The state's tool is coercion – the use of force or the threat of the use of force – and force is incapable of affecting a "genuine inward persuasion of the mind," which is necessary for salvation. Coercion, thus, simply *cannot* be employed for salvation – it offends against the very nature of religious faith and doctrine in *every* sense. Quite obviously, compelling people to profess what they do not believe is simply overtly forcing them to lie.[23] Moreover, Locke argues that, from the perspective of the persecuted, it is irrational to follow the directives of another on religious matters, for they could be wrong about what is or is not pleasing to God. But in either case, if one does not believe sincerely, then following another in action (even if they are "right" about what Locke calls the "true religion") is a patently illegitimate path to "the mansions of the blessed" (Locke 1983, 38).

Obviously, one could give a much more robust discussion of the precise details of Locke's arguments, their respective interpretive debates, and the trenchant criticisms that have been offered against them, but doing so would stray far from the central issues that I wish to address. I will mention only two of the most damning objections to Locke's

defense of toleration. First, Locke explicitly denies that Catholics and atheists need to be tolerated; and, second, his defense of toleration seems to proceed from exclusively *prudential* grounds rather than from any *genuine* respect for religious freedom.[24] The first objection is more easily explained, if not excused, by appeal to the issues that were in the air during the time in which Locke was writing. Most of the famous seventeenth century English defenders of toleration did not defend the claim that atheists should be tolerated – the issue was simply not on the table politically or philosophically.[25] Again, this in no way *excuses* Locke on this issue but is rather an explanation.[26] The second objection is more problematic. From a contemporary perspective – in which basic respect for religious freedom is a defining feature of the ideology of liberal democracy *and* human rights – it remains true that Locke's defense of toleration seems to draw on what some have called the "wrong kinds of reasons." So, whereas there is good reason to treat Locke as a seminal progenitor of contemporary theories of toleration, there is also an important sense in which he (like all influential historical figures) was a product of his time, and in hindsight the shortcomings of his view are brought into sharp relief.

During the seventeenth century, then, a series of thinkers consolidated various strands of thought into a tradition we now know as social contract theory. Grotius formulated a secular basis for natural law and reenvisioned rights as entitlements that could be transferred as the basis of a conception of political authority. Subsequent philosophers developed comprehensive theories, including accounts of natural law or right, the state of nature, the social contract, the best form of government, and the possible legitimacy of rebellion. However, as we have seen, these key elements of a broadly contractarian approach were developed in different ways: Hobbes depicted the state as a Leviathan, with an absolute ruler; Pufendorf encouraged limited government, focusing on the duty of the ruler to rule well; and Locke insisted on the necessary limitations on government power and emphasized the existence of a right to rebellion if those limits were exceeded.

The political thought of Baruch Spinoza (1632–77) shares many key features of social contract theory. Moreover, he seems to be a natural historical companion to Locke, because he offers an impassioned defense of toleration, which appears to be similar to Locke's strategy for answering the political problem of cultural and religious diversity. Yet, a close look at Spinoza's philosophy reveals that these attributions are at least misleading, and perhaps mistaken. Both his political theory and his views on toleration differ from contractarian approaches in important respects. Although Spinoza often writes about the issues that concerned social contract theorists, he does so from a perspective that denies the possibility of transcendent moral values, rights, or justifications. So, although Spinoza is an important figure in our narrative, he is so both for his departures from the social contract tradition and for his place within it.

Spinoza is most well known for his *Ethics*, but his political philosophy is developed in his less-studied works, the *Tractatus Theologico-Politicus* (*TTP*) and the unfinished *Tractatus Politicus* (*TP*). Although it caused an uproar in the seventeenth century, Spinoza's political philosophy has received comparatively little scholarly attention.[27] This is due to several factors. First, there is the contentious nature of his philosophical commitments. Second, his political views are difficult to interpret because the arguments in the *TTP* were written primarily as a commentary on the Calvinist theocrats who controlled the Dutch provinces. Third, his accounts of natural right, the state of nature, the social contract, forms of government, and the legitimacy of rebellion are strikingly different from the broader contractarian tradition because of his thoroughgoing denial of transcendental standards of right action and good conduct. To see just how different

Spinoza's approach to these issues is, let us briefly consider some of his starker divergences from the social contract tradition.

To begin with, consider Spinoza's conception of natural right, which he identifies with power. For him, one has the *right* to do something if one has the *power* to do it:

> By the right and established order of Nature I mean simply the rules governing the nature of every individual thing, according to which we conceive it as naturally determined to exist and to act in a definite way. For example, fish are determined by nature to swim, and the big ones to eat the smaller ones. Thus it is by sovereign natural right that fish inhabit water, and the big ones eat the smaller ones. For it is certain that Nature, taken in the absolute sense, has the sovereign right to do all that she can do; that is, Nature's right is co-extensive with her power. . . . But since the universal power of Nature as a whole is nothing but the power of all individual things taken together, it follows that each individual thing has the sovereign right to do all that it can do; i.e., the right of the individual is co-extensive with its determinate power.
>
> (*TTP* 173)

Spinoza holds that human beings are part of this "right and established order of nature," and that philosophy must be thoroughly naturalized. In effectively rejecting a central tenet of much of the entire natural law tradition, Spinoza argues that the same laws govern both human beings and the rest of nature (*E* 3 preface; *TP* 2.5).[28] As we have seen, the social contract theorists distance themselves from theological premises, though they do so in varying degrees. But they all presuppose an external *normative* order that differs from the *actual* order of things. For all of them – Grotius to Locke – people can be said to act *against* nature.[29] But, Spinoza denies the existence of a natural order – or any order – that can offer a normative and transcendental standard against which action can be measured.[30]

Similarly, Spinoza offers a discussion of contracts that abstracts away from transcendental standards of normativity. He offers a utility-based account of obligation according to which "the validity of an agreement rests on its utility, without which the agreement automatically becomes null and void" (*TTP* 176). To think otherwise would violate his naturalistic view of human psychology by demanding that people refrain from acting in the way they think best – from picking the greater evil over the lesser evil or the lesser good over the greater good, as Spinoza puts it. Of course, according to Spinoza, if people were always guided by reason, then they would all forswear deceit. But because he sees that people are not all rational, and because he sees that they are all guided by immediate pleasure and pain, we should assume that people will not be honest unless there are external conditions in place that make it less pleasant to deceive than to stand by their commitments.

Spinoza's discussion of sovereignty and the relationship between ruler and ruled is similarly derived from his thoroughgoing naturalism. Both sovereign and subjects have the right to do whatever is in their power; specifically, "the sovereign power in a State has right over a subject only in proportion to the excess of its power over that subject" (Ep 50). So, when asked questions like "does the government have the right to raise taxes however it likes?" or "do subjects have the right to rebel in an attempt to usurp a sitting ruler?" Spinoza's answer must always be "it depends." If a government has the power to enact and enforce a piece of legislation, it has the right to do so. If a group of

subjects is powerful enough to usurp the leader, then its members cannot be said to act against right in carrying out a rebellion. In short, nothing can be said to be done against right. However, it may still be irrational or pragmatically ill-advised to carry out a rebellion or to enact a particular piece of legislation. But whether or not this is the case will depend on the features of the particular action, and the implications for the people who live within a society. Spinoza's answers to the fundamental questions of political authority and obligation thus seem to be fundamentally opposed to those of his predecessors (as well as those who came after him).

But although Spinoza seems to simply collapse normative questions into nonnormative or descriptive ones, the story is not so simple. Spinoza decidedly rejects the claim that "might makes right." Even if Cortez had the right to conquer the Aztecs, this does not *mean* that it was good for him to do so – the rightness or wrongness of this action critically depends on the particular increases and decreases in power that resulted from this action. In short, although Spinoza denies the existence of a transcendental standard of right and wrong, he nonetheless has resources for making evaluative claims about the structure of political action (Curley 1996). So, he does offer political claims that deserve attention. For example, he insists that the sovereign is responsible for ensuring political stability (and so for preventing rebellion or seditious activity). He grounds this claim in the recognition that the power of the sovereign is diminished in proportion to the number of subjects who are ready to join a conspiracy against it. So, for the sovereign to retain power, it must avoid doing things that will incite insurrection. Moreover, he argues for the superiority of democracy over other forms of government, overtly rejecting the Hobbesian justification for monarchy; and he does so on the basis of the claim that "in a democracy there is less danger of a government behaving unreasonably, for it is practically impossible for the majority of a single assembly, if it is of some size, to agree on the same piece of folly" (*TTP* 178). So, although Spinoza does not argue for limited government or accord subjects a right to revolution properly speaking, he does attempt to offer naturalistic equivalents that are grounded on his claim that the right or power of the state is essentially limited by the right or power of the people.

Turning to the other key aspect of his political philosophy, his defense of toleration and free speech, Spinoza, like Hobbes, asserts that the state has the right to dictate public religion. He adopts the same Erastian position that subordinates all other authorities (and specifically ecclesiastical authorities) to the state; indeed, the title of chapter 19 of the TTP reads, "It is shown that the right over matters of religion is vested entirely in the sovereign, and that the external forms of worship should be as accord with the peace of the commonwealth, if we would serve God aright." However, unlike Hobbes, Spinoza recommends that the government refrain from exercising substantial control over speech and religion, claiming that a stable political order should generally allow for freedom in both areas. Unlike Locke, however, Spinoza's account of toleration is not at bottom a freedom to worship. He draws a strict separation between outward expressions of faith and inner thoughts or worship of God. Like Locke, Spinoza thinks the latter are simply outside the control of the state because it is strictly impossible to legislate belief. But he recommends allowing various forms of outward worship on the grounds that attempting to curb such worship is impracticable and likely to backfire. Although Spinoza's reasons tend to be pragmatic rather than principled, and he emphasizes that the sovereign always has the power to limit speech and expressions of religious faith, it is not clear how wide the scope of toleration is meant to be on Spinoza's account. On

the one hand, Spinoza argues that the essence of the state is to preserve the freedom to philosophize (as he puts it in the epigram to the *TTP*):

> By means of which it is shown not only that Freedom of Philosophising can be allowed in Preserving Piety and the Peace of the Republic: but also that it is not possible for such Freedom to be upheld except when accompanied by the Peace of the Republic and Piety Themselves.

In fact, Spinoza notes in the preface that the goal of the *TTP* is to demonstrate the truth of this biconditional.[31] But although his notoriously deep republican commitments make it seem as if Spinoza should offer an unlimited defense of free speech, he is not unequivocal on the issue. For example, later on in the *TTP*, he says that granting full freedom of speech "could have the most disastrous consequences" (*TTP* 223). So, although he provides a compelling argument against oppressive rule – it is unstable and imprudent – he does not provide resources for defending limited government, toleration, or civil rights on the basis of an appeal to rights or liberty (or the value thereof).[32] This could be read as either an advantage or a disadvantage of Spinoza's account, depending on one's other commitments, and commentators have taken both positions.

As this brief overview indicates, Spinoza's political philosophy shares several elements that are central to the social contract approach. However, his views differ fundamentally from Grotius, Hobbes, Locke, and Pufendorf. Each of those thinkers wanted to explain political authority, and legitimacy, and obligation, as well as which forms of state are morally better or worse, by reference to a transcendental, nonnormative standard. The questions they answer arise only once you accept that power does not always entail authority and that there are things a ruler ought not to do, even if he can. Spinoza's naturalism precludes asking these questions *in the same way* as other social contract theorists; however, he still hopes to answer these questions in terms that are grounded in natural facts about human behavior and human psychology. The explanations offered by other social contract theorists depend fundamentally on the idea that human beings are the sort of creatures that can create enduring obligations to each other by means of consent or agreement, but Spinoza thinks that people will not uphold their obligations if they conflict with their interests and so suggests that obligations only remain binding to the extent that there are social institutions in place to ensure that our interests line up with the obligations that we have taken on.

To the extent that Spinoza is part of the social contract tradition, he is so only in an idiosyncratic way. But, regardless of how we classify Spinoza's views, the question of most interest concerns the viability of these views and the soundness of his arguments. Many people have wondered whether Spinoza offers a genuinely normative political theory; and if not, we must ask whether those of us who wish to do so can nevertheless learn something from him. I suggest that the sort of normative project that is common to the social contract theorists that we have discussed is thrown into sharp relief by considering Spinoza's naturalizing approach. But it is the normative project that persists throughout the eighteenth century and that has come to structure the vast majority of contemporary political philosophy. Of course, as it developed, social contract theory became more democratic, eventually more participatory, with basic rights being protected. And this is the form we find it in today – a far cry from Hobbes's *Leviathan* though, in an important sense, rooted in the basic commitments that gave rise to it.

Notes

1 For an excellent discussion of the divine right of kings, see Sommerville (1986: 9–46).
2 For extended discussions of Filmer's philosophy, see Sommerville's introduction to his edition of Filmer's *Patriarcha and Other Political Writings* (Cambridge: Cambridge University Press, 1991); Gordon J. Schochet's *Patriarchalism in Political Thought: The Authoritarian Family and Political Speculation and Attitudes Especially in Seventeenth-Century England* (Oxford: Basil Blackwell, 1975); and James Daly, *Sir Robert Filmer and English Political Thought* (Toronto: University of Toronto Press, 1979).
3 Note that the "modern social contract tradition" is also sometimes confusingly called the "classical social contract tradition." Both need to be differentiated from the contemporary social contract tradition of the twentieth and twenty-first centuries most famously espoused by John Rawls. In general, contemporary social contract theory also attempts to offer political principles that could, in some sense, be rationally acceptable to all.
4 Interestingly, a number of other philosophers, most of whom were known for their work in other areas of philosophy, also explicated or defended some sort of contract views (e.g. Gassendi). An interesting exception is Leibniz, who explicitly argued against the idea that humans lived as equals in a prepolitical state and criticized Locke's contractarianism. Leibniz's political theory, to the extent there was one, is sometimes characterized as Platonist, given that he supported the rule of the wisest (see Nicholas Jolley, *Leibniz*, New York: Routledge, 2005, pp. 176–198).
5 Ian Hunter and David Saunders put this nicely, saying,

> Even at their most theoretical – indeed, especially at their most theoretical – seventeenth-century natural law doctrines represented a series of attempts, made in desperate times, to provide political authority with a normative basis capable of withstanding the shattering impacts of confessional division and civil disorder.
>
> (*Natural Law and Civil Sovereignty*, Palgrave MacMillan, 2002, p. 5)

6 For a useful overview of Grotius's political thought, see Tuck's introduction (pp. xviii–xxxiii) to the three-volume set of Grotius's masterpiece *De Iure Belli ac Pacis* or *The Rights of War and Peace* (*DJB*) (Indianapolis: Liberty Fund, 2005).
7 For a useful discussion of this, see David Armitage's introduction to *The Free Sea* (2004) Indianapolis: Liberty Fund.
8 It is important to note that Grotius's account of natural law and natural right is both detailed and internally ambiguous, and it is not possible within the constraints of this essay to address its complexities or alleged inconsistencies in full; the aim, here, is to indicate its most central and influential features. For a useful discussion of this, see Knud Haakonssen's section on Grotius in his "The Moral Conservatism of Natural Rights," in Hunter and Saunders, eds., pp. 28–34.
9 See *De Iure Praedae Commentarius* or *Commentary on the Law of Prize and Booty* (*DJP*), ed. Martine Julia van Ittersum (Indianapolis: Liberty Fund, 2006); chapter 2, and *DJB*, The Preliminary Discourse, paragraphs 6–8.
10 Grotius uses the term "right" in a number of different ways, including the medieval way, though I cannot discuss the richness or the ambiguities in this term. In his discussion of the right of war, Grotius claims that *ius* (plural *iura*) can have three distinct meanings: first, it can mean simply what is just; second, it can signify the kind of law that makes *ius naturale* a dictate of reason; and, third, he used it in the way that I am pointing out here. At the center of this third meaning is the individual or person, and *ius* is conceived of as "a moral Quality annexed to the person, enabling him to have, or do, something justly" (I.I.III–IV). He goes on to suggest that, in this third sense, a moral quality may be deemed to be a faculty that each person has signifying a power over oneself, namely liberty, or a claim on or power over other persons or things; and he thus argues that a right is something we have. Because he focuses on the individual subject as rights-bearer, Grotius is sometimes credited with offering a theory of "subjective" rights, as opposed to the "objective" notion of right found in medieval philosophy. For useful discussions of the meanings of *ius* in Grotius, see Brian Tierney's *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150–1625* (Atlanta: Scholars Press, 1997), pp. 316–42; and Richard Tuck's *Natural Rights Theories* (Cambridge: Cambridge University Press, 1979), pp. 58–81.
11 *The Free Sea*, p. 8. See also the prolegomena to *DJP* where he claims that all philosophers who have entertained this question have agreed on his fundamental principles.
12 *DJP* II:10–11. See Robert Shaver (1996), "Grotius on Scepticism and Self-Interest," *Archiv für Geschichte der Philosophie*, 78, pp. 27–47; and Richard Tuck (1983), "Grotius, Carneades and Hobbes," *Grotiana*, N.S., 4, pp. 43–62.

13 Although some scholars have disputed whether Grotius should be viewed as a contractarian or even a protocontractarian, many of the core elements of contractarianism – voluntary consent, the transfer of natural rights as the basis for political power – can be found in Grotius's theory. Moreover, whether Grotius is a contractarian or not, the framework within which contractarians theorize about how a contract comes into existence and what it's supposed to do is one of his central legacies.

14 There is a great debate over whether or not Hobbes was in fact an atheist, and, although he denied the charge himself, his formulation of natural law is famously one that includes no mention of God at all.

15 The *DOH* was a greatly abridged version of his much longer work *De Jure Naturae et Gentium Libri Octo* or *On the Law of Nature and of Nations in Eight Books* (*DJN*) and was commissioned with the intention of using it as a textbook for students of natural law.

16 This may in part be due to the fact that, like Grotius, Pufendorf's major work is very long. *DOH* is not particularly edifying if it is not read it alongside *DJN* (as was the teaching practice).

17 For useful discussions of Pufendorf's political theory, see Craig L. Carr and Michael J. Seidler (1996), "Pufendorf, Sociality and the Modern State," *History of Political Thought*, 17, pp. 354–78; Michael Nutkiewicz (1983), "Samuel Pufendorf: Obligation as the Basis of the State," *Journal of the History of Philosophy*, 21, pp. 15–29; and J. B. Schneewind (1987), "Pufendorf's Place in the History of Ethics," *Synthese*, 72, pp. 123–55.

18 In *Some Thoughts Concerning Education* (1693), Locke listed *DJN* at the top of his reading list for students saying that it "instructed in the natural rights of men, and the original and foundations of society, and the duties resulting from thence."

19 Though minimal, Pufendorf's God seems to be recognizably Christian. It is important to see that Pufendorf was attempting to give a theory that would be acceptable to the various warring factions within Christianity, and he was acutely aware of the damage that the factions had done to political stability and civil order. Scholars disagree about the role and importance of God in Pufendorf's overall philosophy, but it is clear that he wanted to separate our religious duties from our personal and civic duties in an attempt to deescalate the violence and antagonisms that had come as a result of their combination.

20 For representative examples of early modern philosophers who say (more or less) that laws are decrees and that there has to be a decree maker, see Leibniz, *On Nature Itself*, 501, in *Gottfried Wilhelm Leibniz: Philosophical Papers and Letters*, 2nd ed., Leroy E. Loemker, ed. (Dordrecht and Boston: D. Reidel Publishing Company, 1969); Malebranche, *Dialogues* IV.11, 59–60, the Jolley and Scott translation; and, finally, Ralph Cudworth, *The True Intellectual System of the Universe* (Stuttgart-Bad Cannstatt: F. Fromann Verlag, 1964), 161, who claims that laws are made by God and implanted into creatures.

21 Locke developed his theories regarding toleration during this period. His ideas exhibited an evolution over a twenty-year period moving from opposition to religious toleration in his early works to his remarkable defense of toleration in *A Letter Concerning Toleration* written in the 1680s. There is no doubt that his experience of the imposition of intolerance was in part responsible for the change in his views. See Wotton's introduction to his edition of *Locke's Political Writings* for an excellent analysis of the transformation of Locke's views.

22 Locke understands "churches" to be "voluntary Societ[ies] of Men, joining themselves together of their own accord in order to the publick worshipping of God, in such a manner as they judge acceptable to him and effectual to the Salvation of their Souls" (Locke 1983, 28). What Locke calls the "Duty of the Civil Magistrate" extends only to "civil interests," which include "Life, Liberty, Health, and Indolency of Body; and the possession of outward things, such as money, Lands, Houses, Furniture, and the Like." This duty "neither can nor ought in any manner to be extended to the Salvation of Souls. . . . [T]he Magistrate's Power extends not to the establishing of any articles of Faith, or Forms of Worship, by the force of his Laws" (Locke 1983, 26–27).

23 In an especially perspicuous and pointed passage, Locke addresses those who argue in favor of forcing nonbelievers to profess the "true religion." Locke says,

> A sweet religion, indeed, that obliges men to dissemble and tell lies, both to God and man, for the salvation of their souls! If the magistrate thinks to save men thus, he seems to understand little of the way of salvation. And if he does it not in order to save them, why is he so solicitous about the articles of faith as to enact them by a law?

24 As Jeremy Waldron (1988) notes, echoing a claim made by one of Locke's contemporary critics, Jonas Proast, Locke offers only "instrumental" reasons to respect religious difference. As a result, this approach

may appear to be unpalatable today, even to those who share Locke's overall commitment to religious toleration.

25 Rare exceptions can be found in the writings of members of a minority of radical Protestant groups such as the Seekers and the Levelers; here, Peter Bayle is perhaps the most notable example.

26 The exclusion of Catholics is harder to make sense of. Locke justifies excluding them on the grounds that they ultimately owe their obedience to a foreign power, namely the Pope in Rome. On this point, it is worth noting that many in England at this time were (and perhaps not unreasonably) afraid that England might soon become a Catholic country. Again, this does not excuse Locke's refusal of toleration to Catholics, it is only a possible explanation of why he held such a position. And again, there was the rare exception. John Foxe, an Anabaptist, articulated a sweeping doctrine of tolerance, even toward Catholics, even though he "detested their doctrines with every fibre of his being." And the radical Protestant groups who sometimes advocated for toleration that included atheists also sometimes included Catholics.

27 The essays in the recent book, *Spinoza's "Theological-Political Treatise": A Critical Guide*. Eds. Yitzhak Melamed and Michael Rosenthal (Cambridge: Cambridge University Press, 2010), are a welcome exception to this trend.

28 On the relation between Spinoza and Hobbes in particular, see D. J. Den Uyl and S. Warner "Liberalism and Hobbes and Spinoza" in *Studia Spinozana* 3 (1987), 261–318; and, more recently, D. Garrett. " 'Promising' Ideas: Hobbes and Contract in Spinoza's Political Philosophy" in Melamed and Rosenthal (2010).

29 Strictly speaking, the story is more complex. For Spinoza, people can – in an important sense – act in a way that is contrary to their nature; they do so when they act on the basis of bare affect, mere opinion, or hearsay that represents the world in a confused and fragmentary way. For Spinoza, even when people act on the basis of confused and fragmented representations, they act out of necessity; however, Spinoza does believe that it is possible for our mistaken ideas to be emendated in a way that can yield actions that are more free. A clear articulation of this point depends on an understanding of Spinoza's metaphysics and epistemology, which is beyond the scope of this chapter. For a good discussion of the role of affect and imagination in Spinoza's thought, see Susan James (2009), "Freedom, Slavery and the Passions," in Oli Koistinen (ed.) *Cambridge Companion to Spinoza's Ethics*, Cambridge: Cambridge University Press, pp. 223–41.

30 As I discuss later, the fact that Spinoza rejects transcendental norms and transcendental standards of the sort that other social contract theorists hoped to establish does not mean that he rejects normativity *simpliciter*. As Curley (1996, 322) puts the point, "to say that Genghis Khan acts in accordance with natural right is compatible with saying that he acts contrary to the law of reason, and I take this also to be a normative claim." Edwin Curley (1996), "Kissinger, Spinoza, and Genghis Khan" in D. Garrett (ed.) *Cambridge Companion to Spinoza*, Cambridge: Cambridge University Press, pp. 315–42.

31 The import of this fact for Spinoza's political philosophy receives its most complete defense in Aaron Garrett (2012), "Knowing the Essence of the State in Spinoza's *Tractatus Theologico-Politicus*," *European Journal of Philosophy*, 20:1.

32 See Justin Steinberg's essay "Spinoza's Curious Defense of Toleration" in *Spinoza's "Theological-Political Treatise": A Critical Guide*. Eds. Yitzhak Melamed and Michael Rosenthal (Cambridge: Cambridge University Press, 2010).

Bibliography

Astell, M. (1996) *Mary Astell: Political Writings*, ed. P. Springborg, Cambridge: Cambridge University Press.

Grant, H. (1996) "Hobbes and Mathematics," in Tom Sorell (ed.) *The Cambridge Companion to Hobbes*, Cambridge: Cambridge University Press, pp. 108–128.

Hobbes, T. (1994) *Leviathan*, ed. Edwin Curley. Indianapolis: Hackett.

Jesseph, D. (1996) "Hobbes and the method of natural science," in Tom Sorell (ed.) *The Cambridge Companion to Hobbes*, Cambridge: Cambridge University Press, pp. 86–107.

King James VI and I (1994) *Political Writings*, ed. J. P. Sommerville, Cambridge: Cambridge University Press.

Lloyd, S. A. (2009) *Morality in the Philosophy of Thomas Hobbes: Cases in the Laws of Nature*, Cambridge: Cambridge University Press.

Locke, J. (1983) *A Letter Concerning Toleration*, ed. J. Tully, Indianapolis: Hackett Publishing.

Locke, J. (2003) *Two Treatises of Government*, ed. P. Laslett, Cambridge: Cambridge University Press.

Martinich, A. (2005) *Hobbes*, New York: Routledge.
Sommerville, J. P. (1986) *Politics and Ideology in England, 1603–1640*, Essex: Longman Publishing.
Spinoza, B. (2001) *Theological-Political Treatise*, 2nd ed., trans. S. Shirley, Indianapolis: Hackett.
Sreedhar, S. (2010) *Hobbes on Resistance: Defying the Leviathan*, Cambridge: Cambridge University Press.
Waldron, J. (1988) "Locke: Toleration and the Rationality of Persecution," in S. Mendus (ed.) *Justifying Toleration: Contemporary and Historical Perspectives*, Cambridge: Cambridge University Press, pp. 61–86.