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THE ORIGIN OF POWER IN THE NEED TO COOPERATE:  
PARALLELS BETWEEN POLITICAL AND ECONOMIC POWER

by

DAVID NAGY

A dissertation submitted to the Graduate Faculty in Philosophy in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York

2019

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Parallels Between Political and Economic Power

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David Nagy

This manuscript has been read and accepted for the Graduate Faculty in Philosophy  
in satisfaction of the dissertation requirement for the degree of Doctor of  
Philosophy.

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## ABSTRACT

The Origin of Power in the Need to Cooperate: Parallels Between Political and Economic Power

by

David Nagy

Advisor: Carol Gould

In this essay, I argue that the power structures in both states and firms should be the same—for example, if state authorities are chosen via a democratic process, the same should hold for authorities in firms. This is because the source of power is the same in both realms, namely, economic and political power derives from its ability to facilitate *cooperation*. Hence, there is no plausible reason to defend a different power structure for states and firms. To argue this, I start in Chapter 1 by arguing against the most common theory of state power, which is that it derives from the state's monopoly on violent force. In Chapter 2, I explain R. H. Coase's theory of corporations, which will serve as partial inspiration for my own theory of political and economic power. Then I describe coordination games and focal points, key concepts that elucidate how people cooperate, in Chapter 3. Chapter 4 contains my main argument that political and economic power arise from the same source, the need for people to cooperate and the ability of power to facilitate this cooperation. I consider four attempts to distinguish states and firms in Chapter 5, and then conclude with some thoughts about the applications of my argument.

## ACKNOWLEDGMENTS

No human work is possible alone, and that is very much true for this dissertation. First and foremost, I would like to thank my advisor, Professor Carol Gould. It was a class of hers I took in 2012 that first set me on the path to thinking about the topics covered in this dissertation, and she has been a brilliant and supportive mentor since I first entered graduate school. Her help only magnified during the dissertation process, into which she poured a great amount of time and effort into, without which this essay would be immeasurably worse. I also am extremely grateful to my other committee members, Linda Alcoff, Charles Mills, and Omar Dahbour, for agreeing to help me with this process, as well as for all the productive conversations we have had, and all the things I have learned from them, throughout my time at the City University of New York. Additionally, I would like to thank my friends Shawn Simpson, who read over a draft of Chapters 3 and 4, and Danielle Dabler, who kindly proofread for me. Needless to say, any errors that remain are mine and mine alone. Finally, I would like to thank my mother, Donna Hay, for everything she has done and continues to do.

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## Introduction

They live under the thumbs of others for much of their lives. Starting the minute they wake up, their day does not belong to them. The places they go, the things they do, even the clothes they wear are controlled by other people. If they disobey their orders, a number of terrible consequences could ensue. They may lose their livelihood; they may be forced to move; in some cases, they might even be driven to the verge of death. Finally, to add insult to injury, the official state ideology insists that they are “free,” indeed, that freedom *requires* them to be so subordinated. I am not describing life under a totalitarian state—I am describing life as a worker in a capitalist economy. Capitalist firms are hierarchical organizations where some people (the employees) are required to follow the orders of others (the managers), with obedience rewarded and disobedience punished. If a firm were a state, we would call it an autocracy,<sup>1</sup> and (if we believe the vast majority of Western political philosophy over the past few centuries) insist that it be democratized. On what basis, then, can we coherently believe that *state* dictatorships are morally abominable, but *economic* dictatorships are perfectly legitimate?

Theorists have proposed several such bases over the years, but one stands out as the most obvious and, perhaps, the hardest to refute: the power states have over their citizens is of a fundamentally different nature from the power managers have over their employees. States command obedience because they are able to use *physical force* to punish those who disobey. Managers, on the other hand, cannot ensure compliance through violence (at least, not unless the state has given them prior permission)—all they can do is fire a disobedient employee, and while losing one’s job is often a major hardship, it does not compare to being imprisoned, exiled, or

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1. In terms of its governance structure, at least. There are some limits to what an employer can require of an employee, so in that regard a capitalist firm is most analogous to a constitutional monarchy or oligarchy. I thank Carol Gould for bringing this to my attention.

killed. Indeed, the manager's power appears to be *dependent on* state power: If they were to fire a worker but the worker refused to leave their job, the manager's only recourse would be to call on the state to forcibly remove their (now ex-)employee. For both of these reasons, it appears reasonable to assert that state power is more total than (and therefore worse than), corporate power, and so has a more stringent standard for legitimacy. Hence, it seems reasonable to assert that state power must be democratic while it is morally permissible for corporate power to be dictatorial.

In this essay, I will disprove the above argument. By demonstrating that state and corporate power in fact have the same nature, function, and purpose, I will show that there is no coherent justification for treating them differently. Therefore, whichever standards we have for state legitimacy—in particular, that a government is only legitimate if it is chosen by the people via a democratic process—we must also apply to corporate power, e.g., management is only legitimate if it is chosen by their workers via a democratic process.<sup>2</sup> My argument begins in Chapter 1 by providing three objections to the view of state power I sketched above, i.e., I show that the power of the state is *not*, in fact, based on its ability to use violent force on those who disobey it. First, I argue that the idea of “legitimate force,” which is needed by this view to support its distinction between states and (e.g.) organized crime syndicates, is not a coherent concept. Second, I demonstrate that this view cannot explain how the civilian heads of government hold power over the police and army. Third, I argue that most people do not obey the government out of fear of violent retaliation, but rather because they expect (most) *everyone else* to obey the government. Together, my objections undercut one main leg of the argument I laid

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2. I will not be providing a positive argument *for* democracy, which would be a much larger project that I do not have room for in this essay. I do hope to offer my own views on this critical topic in the future, though.

out in the previous paragraph: if *force* is not the foundation of state power, it is possible that state and corporate power are far more similar than they might seem.

In my second chapter, I lay further groundwork for that idea. The main portion of that chapter is devoted to explicating the economist R. H. Coase's theory of the firm, as well as additions made to it by later economists. Coase seeks to answer the question: If the market is the most efficient way to organize an economy, why are there large sectors of a capitalist economy—that is, firms—where few to no market transactions exist? His answer is that there are costs to using the price mechanism, specifically, it takes a lot of time to complete each individual transaction. Hence, a firm can be more efficient because its employees simply have to do whatever their boss says; they do not need to negotiate with each other every time they want to do something together. After I cover Coase (and his successors') theory, the remainder of the chapter shows that the theory is extremely similar to John Locke's theory for why a government is preferable to the state of nature. This similarity makes more plausible my thesis that state and corporate power have the same moral validity.

Chapter 3 will be the final preliminary before my main argument. In it, I will describe concepts from game theory, coordination games and focal points, that will form the basis of my theory regarding economic and political power. Coordination games are cases where it is in everyone's best interest to cooperate, but the challenge is to determine precisely *how* to cooperate. Focal points are a "prominent" or "obvious" solution to such games. Since every participant *expects* every other participant to follow the focal point, they are incentivized to follow it as well, in order to successfully cooperate—and because all participants (perhaps subconsciously) reason this way, cooperation is indeed achieved. I will conclude the chapter by

suggesting that this gives focal points a kind of *power*: as long as people want to cooperate, they effectively “have no choice” but to follow the prominent focal points. This will lead to my full theory of political and economic power in the following chapter.

Chapter 4, the core of my essay, builds off of the previous three chapters by directly arguing that state power and corporate power derive from the same source. To be specific, they both exist to solve coordination problems and thereby enable people to cooperate with each other. First, I apply the coordination game framework to Coase’s theory of the firm, showing that another way to understand his theory is that firms arise in order to provide solutions to their employees’ coordination problems. Following this, I argue that state power can *also* be understood as deriving from the fact that it enables citizens to cooperate. Understanding state power in this way enables us to avoid the three objections I lay out in Chapter 1. For this reason and others, I conclude by arguing that since state and corporate power are extremely similar, the standards for legitimacy must be the same as well.<sup>3</sup>

There remain, however, other ways one can argue that state and corporate power are different, so in Chapter 5 I cover four major such arguments and show that they are unsatisfactory. The true strength of my theory becomes apparent in my response to the last argument, which is that workers should have the freedom to decide to work in an autocratic company if they choose to; careful study of coordination games shows that this is not “freedom” in any meaningful sense. Finally, in the conclusion, I briefly explore specific ways workplace

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3. One may object that, if my argument is that state and corporate authority are *descriptively* similar, how can I draw *normative* conclusions? While a full response to this must wait for the body of the dissertation (specifically the end of Chapter 4), for now I can say that, if they are descriptively similar, the burden of proof is on the person who claims them to be morally different. Disproving various attempts to draw this normative difference will be the task of Chapter 5. I thank Carol Gould for bringing this to my attention.

democracy could be implemented and consider whether my argument can extend into other organizations as well, such as nonprofits or the family.

Before I begin, though, one may ask: what about all the theorists before me who have provided arguments for workplace democracy? Does my argument provide something new? Fully covering every historical theory in favor of workplace democracy would be a dissertation in itself, so I do not have the space to do that here; additionally, some such theories are based on substantive arguments for democracy in general, and (as previously noted) I do not have the space to address that topic at all. Despite these deficiencies, it is important to show that this essay is worth writing, so in the remainder of this introduction I will summarize some arguments others have made and provide short arguments for why they are insufficient, though I recognize that this discussion will be necessarily incomplete. That said, most of the historical arguments are inadequate for the same reason: for all their insights, they fail to adequately rebut the argument I laid out at the beginning, that state power is fundamentally different because it rests on violent coercion. Because my essay rebuts this argument, it provides key support for the project of democratizing workplaces.

George Brenkert identifies (Brenkert 1992, 253-254) four major types of arguments for workplace democracy: utilitarian or consequentialist arguments, which assert that workplace democracy will increase overall happiness or well-being; social contract or consensus arguments, which appeal to the idea that a social contract would require economic along with political democracy; arguments based on worker's rights, i.e. that people have a *right* to democratically control the firms they work in; and arguments based on the similarity between states and firms—which are also called “parallel case” arguments (Cohen 1989, 28-29; Hsieh 2008, 86). While not

every pro-workplace democracy view falls neatly into one of these categories, Brenkert's distinctions will be helpful to structure my discussion of opposing theories, so I will utilize it in what follows.

I begin with the consequentialist arguments. The idea behind this class of arguments is that, rather than asserting workplace democracy is *inherently* morally necessary, they argue that workplace democracy should be implemented because its *overall societal impact* would be positive. For example, Carole Pateman argues that participation has a salutary educative effect on the citizenry: "The major function of participation in the theory of participatory democracy is therefore an educative one . . . . the more individuals participate the better able they become to do so" (Pateman 1970, 42-43). Pateman argues that participating in decisions that affect their own lives, especially those in industry (43), both gives people experience in democracy and helps develop their moral character (29). In other words, by working in a democratic firm, workers would become more experienced in and adept at democratic processes, which would enable them to more effectively participate in societal and political decisions. David Schweickart also has a consequentialist view, arguing that workplace democracy would (at least to an extent) resolve seven major defects with capitalism: inequality, unemployment, overwork, poverty, instability, environmental destruction, and financial corruption of politics (Schweickart 2011, 86). Other potential consequentialist arguments include that more people would be happier under workplace democracy since they would have more control over their lives, or that democratic firms are more economically efficient than capitalist firms on average since they motivate their workers more.

I am not necessarily opposed to any of these arguments, but they all rely on certain empirical assumptions, e.g. that workplace democracy *really would* educate workers in democracy or that it *really would* reduce poverty more than a capitalistic welfare state could. However, these types of arguments are extremely difficult to prove with any degree of certainty: empirical arguments depend on the available empirical data, which is relatively lacking when it comes to worker-run firms. While there are many examples of individually-successful worker-owned cooperatives, they do not demonstrate what an *entire economy* made up of worker-controlled firms would look like. The only historical example of that is Yugoslavia, but whether its relative success from the 1950s-70s and subsequent collapse in the 1980s are attributable to workplace democracy or other factors can be plausibly debated. Therefore, at least until we have more empirical data, a convincing case for workplace democracy cannot rely on consequentialist grounds alone.

The second type of argument Brenkert describes is a “social contract” or “social consensus” argument. While it is not entirely clear to me what he means—the only examples Brenkert gives he ends up concluding are not really social contract arguments at all (Brenkert 1992, 253)—perhaps Iris Marion Young is an example. Young argues for a principle of self-determination that requires all forms of social cooperation to be run democratically (Young 1979, 31) on the basis of the Rawlsian social contract. Specifically, she argues that this self-determination principle “tends to reproduce desirable features of the original position itself,” namely the idea that the entire collective determines which rules are binding on each of its members (38). However, this theory is unable to respond to the objection that states can violently coerce people into following their laws while firms cannot; even if Young is right that Rawls’s

original position offers no resources to distinguish between “political” and “non-political” organizations (37), this is not convincing to those who do not believe the Rawlsian original position is morally binding.<sup>4</sup>

Brenkert’s third type of argument is that workplace democracy is required due to certain rights workers have. I will interpret ‘rights’ here broadly, and put all theories that assert people are *entitled* to workplace democracy in this category, regardless of whether this entitlement is basic or derives from other considerations. For example, Nien-He Hsieh argues that workers face “arbitrary interference” since decisions are made that affect them but do not take their interests into account, which violates their rights to (in Rawls’s terms) have confidence and self-worth (Hsieh 2008, 91-92). Carol Gould argues, “every person who engages in a common activity with others has an equal right to participate in making decisions concerning such activity,” on the basis of an equal right to self-development that all humans have—to exercise this right, humans need to participate in common activities, but their self-development is inhibited if they cannot participate in making decisions about those activities (Gould 1988, 84-85). Brenkert’s own argument depends on the idea that power must be accountable to those over whom it is wielded (Brenkert 1992, 256).

The arguments each of these theorists make justifying their theory that workers have these particular rights or entitlements—and that workplace democracy follows from them—are controversial, though I do not have the space to examine each argument in detail. More fundamentally, these theories again are all faced with the difficulty that workers are not *coerced*

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4. Rawls himself does distinguish between the state (or “political society”) and the economic sphere (or “particular associations”). But perhaps Young is correct that this distinction cannot be justified by his overall theory. Regardless, my criticism of her article does not depend on whether her interpretation of Rawls is right or wrong. I will discuss Rawls’s argument for his distinction in more detail in Chapter 5.

into obeying managerial directives, at least not in the same way that the state appears to enforce *its* directives, namely violence. While it is true that managers can threaten to fire their employees, losing one's job is much different from being thrown in prison or killed—while it is obvious that the latter two are *prima facie* morally repugnant, this is much less obvious for the former. The reason is that killing or imprisoning a person deprives them of something they (rightfully) have—namely, their life or their freedom—while firing them denies them access to something they do not have: wages paid for by that particular employer.

Some argue that workers are inevitably coerced under capitalism. A full explication of this idea must wait until Chapter 5, but for now I can offer a few observations. Two different views need to be distinguished: (a) *individual* capitalist firms are always exploitative, because they deny the worker the full value of their labor; (b) the capitalist system *as a whole* is exploitative, as workers must work for *some capitalist or other* in order to survive. To address these in order: while it may be true that all capitalist firms are technically exploitative, that does not mean they *coerce* the workers under their employ, at least not in the same way that states coerce their subjects. As for (b), even if we take this to be a sort of coercion, it is also (*prima facie*) different in kind from governmental coercion. Governments *directly* force their citizens to obey their orders via the threat of force. On the other hand, the capitalist system *as a whole* does not do or threaten anything, at least not directly; it is *individual* employers that interact with their employees. To explain: *individual firms* are not coercive because workers choose which firm to join. An individual employer cannot (typically) threaten their employees' entire livelihood, as a fired worker has the possibility of joining a different firm. Only the system as a whole can do that, since workers have to work for some firm or other, and in a sense this may be coercive. But

unlike in the case of governments, we cannot point to any particular *human* or *organization* that is coercing the workers, which makes it much different from the examples of coercion that seem clearly wrong, such as a mugging.<sup>5</sup> These differences between states and firms make it more difficult to convincingly argue that democratic rights extend to the workplace, so in order to make the case for economic democracy, we need to explain away the apparent fundamental difference between states and firms.

To see this issue more clearly, I will examine in some detail Robin Archer's argument. Archer argues that selling labor is different from selling a commodity because "when labour is exchanged it remains physically attached to its seller. . . . Thus a firm can only gain its exclusive right to decide what it will do with the labour it buys if it gains an exclusive right to decide what the labourers themselves will do" (Archer 2002, 22). This leads to an authority relationship, as a firm that buys the laborer's labor now has the right to direct the laborer's actions, in contrast to the selling of commodities, where the seller loses their commodity but retains the right to direct their own actions (*ibid*). Therefore, Archer asserts, the employer/employee relation is one of authority, like the government/citizen relation, and in both the party that is subject to authority has the right to participate in the decisions that govern them (22-23).

The problem with Archer's argument is his conception of 'authority,' or at least of *inherently illegitimate* authority. He argues that "my actions should be governed (or regulated) by my choices"; if I am subject to another person's authority, "my choices are *excluded* from playing a role in the regulation of my actions," and instead *their* choices are governing my actions (17). This is morally wrong, and equally wrong for all members of an association who are subject to its authority, so therefore all members must have an equal share of control over the

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5. Again, I will discuss this topic in more detail in Chapter 5.

association's decisions (18). However, it is simply false that selling one's labor entails *excluding* one's own choices from playing a role in one's actions. In a capitalist economy, workers choose which firm to work for, and retain the right to leave the firm if they so desire, neither of which are true for subjects of a government.<sup>6</sup> (There are some complications with that latter proposition, that capitalism is justified because workers have the right of "exit," but those must wait for Chapter 5.) Furthermore, even selling a commodity requires that others' choices regulate my actions *to some extent*. In order to make money, I cannot just make whatever products I want; I have to make products that *other people* choose to buy, which means their choices are, to an extent, regulating my actions. To be sure, they are regulating my actions a lot *less* than an employer regulates their employees' actions; customers do not order around their (e.g.) grocer directly. For Archer's argument to work, though, it is not enough that wage laborers lose *more* control over their actions than commodity sellers; the question is if they lose *so much* control that the employer/employee relationship is inherently immoral. For instance, a dictatorial government is wrong because (among other reasons) its subjects have *very little* control over their own lives. Selling one's labor does result in less control over one's actions than selling commodities, but (at least *prima facie*) the worker still retains more control than the subject of a dictatorship. To rephrase, we can think of these as each existing on a spectrum of "having one's actions

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6. One could argue that workers do not choose to live in a capitalist economy in the first place. But that is not the purview of individual firms, which also do not have control over the entire economic system; it is the purview of states. If the only problem with capitalism is that people need to consent to it *as a system*, then it appears that problem can be solved as long as the state itself is democratic, since workers could always choose to elect a socialist government if they so desire. One might rebut that capitalism and (governmental) democracy are inherently incompatible, due to money always corrupting the political process or other reasons, but this leads to the thorny question of whether or not such corruption is truly inevitable or could be solved by reforms short of socialism. Regardless, arguing that capitalism is bad because it corrupts the democratic state is different from arguing that workplace democracy is *in itself* morally mandatory, and the latter is what I am focusing on in this essay.

determined by others' beliefs and desires," with each case increasing in severity. Archer's argument, in itself, does not conclusively demonstrate that the worker case is *severe enough* that, like the government case and unlike the grocer case, democracy is morally necessary, and so it fails.

The final rights-type argument I will address here is an interesting variant proposed by David P. Ellerman. Ellerman argues that, just like freedom is an *inalienable* right and so a slavery contract is always invalid, regardless of whether or not it was consented to, being one's own employer is also an inalienable right, as it is literally impossible to "transfer" one's labor to another person. In Ellerman's words, "A person can in fact voluntarily give up and transfer the possession and use of such a thing as a van. A person cannot in fact do the same with his or her own self" (Ellerman 1992, 141). This is similar to Archer's argument, but while Archer asserts that selling one's labor is inherently unjust, Ellerman asserts that selling one's labor is *literally impossible* (since unlike a commodity, it must always be attached to me) and therefore employment contracts, consensual or not, are inherently fraudulent and thus should be invalidated (169). While clever, Ellerman's argument relies on conflating the "transfer of one's labor" with the "transfer of one's possessions," and fails because the former does not have to be interpreted literally. Literally speaking, an employment contract is just the worker agreeing to do what their employer says—or "renting" themselves, to use Ellerman's preferred word (106)—and there is nothing inherently fraudulent about that. Ellerman does provide a good argument against the traditional view of firm ownership which I will make use of in Chapter 2, but he fails to give a convincing argument for why choosing to rent oneself out (as opposed to selling oneself into slavery) should be prohibited.

In sum, the only route to a convincing argument for workplace democracy is to draw a connection between state and corporate authority. This approach puts me in line with the fourth type of argument, the “parallel case” theories—though to be fair, Gould is also a type of parallel case theorist in that she considers both governments and firms to be types of “common activities,” which are any “activity in which a number of individuals join together to effect a given end” (Gould 1988, 78), and so they are both subject to the same moral requirements. Most parallel case theorists have attempted to blur the line between states and corporations by making *corporations* look more like *states*. For example, Robert A Dahl argues that, like state officials, corporate managers make decisions that are binding on all the workers in their company (Dahl 1985, 113-114). Again, though, Dahl’s argument fails to explain how the state’s violent enforcement mechanisms are analogous to a corporation’s (seemingly) contract-based enforcement mechanisms. David Ciepley argues that corporations are not purely private, but rather “a messy public/private offshoot of public government and cannot be separated from it historically, analytically, or normatively” (Ciepley 2013, 141). Historically, the first corporations were explicitly modeled on governmental constitutions (141-142); analytically, corporate charters are granted by governments, and could not exist without government as they depend on government for “asset lock-in, entity shielding, and limited liability,” without which corporations could not exist at all (145). However, just because corporations *rely* on governments to exist does not necessarily make them partly public, or more to the point, it does not make them *morally similar* to governments. Corporations may be dependent upon governments in order to exist at all, but by itself that does not imply they are partially public in the sense that they *must be democratic*, as we think governments must be. This is not to deny that treating corporations as

purely private leads to some negative consequences such as focusing on short-term gain (149), but that is a matter for government regulation, not economic democracy. Similarly, while Ciepley may be right that technically capital is not owned by shareholders but by the *corporation itself*, and that this situation is created by governments (151), that in itself does not imply that states and corporations ought to be run the same way, namely democratically.<sup>7</sup> As for Gould, I agree that both governments and corporations are indeed types of “common activity”; indeed, this is similar to my own view.<sup>8</sup> But just grouping them both together as common activities is not enough to rebut the objection that the *power* of managers in economic common activities is fundamentally different from the power of governments in political common activities. In sum, the parallel case argument cannot succeed without disproving the idea that the state’s power rests on violent coercion, and that is precisely what I will do in my dissertation, by arguing that the *true* foundation of state power is to facilitate cooperation by managing expectations. In a way, I will be trying to make *states* look more like *corporations*.

To be sure, this theory of the state is itself not new. For example, Andrew Sabl’s description of David Hume’s position, that “State authority is shorthand for citizens’ propensity to acquiesce in decisions by designated officers” (Sabl 2012, 8), is quite similar to the argument I will make. Richard McAdams gives a similar argument for the law in particular, arguing that it provides people with a “focal point” which they can use to cooperate, as they expect everyone else to follow the law and thus it becomes rational for them to follow it too (McAdams 2015, 57-61). However, they do not apply their analysis to firms in the way that I will. In this sense, another way of looking at my dissertation is that I will (a) argue that the theory of the firm

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7. I will discuss Ciepley’s view that *corporations themselves* own corporate property, not shareholders, in Chapter 2 along with Ellerman’s similar view.

8. More on this in Chapter 3.

advanced by economists like R. H. Coase (Coase 1937), Oliver Williamson (Williamson 1975, 1985, 2002), and Margaret Blair and Lynn Stout (Blair and Stout 1999) is extremely similar to the theory of the state advanced by theorists like Sabl (via Hume); (b) provide independent justification for their theories; and (c) explore the implications of this similarity for workplace democracy.

Out of all the arguments for workplace democracy, Christopher McMahon's thesis that states and corporations are both types of "C-authority," authority that facilitates cooperation (McMahon 1994, 44), comes closest to my view. For this reason, I will outline his theory in some detail. While my essay will focus on power, McMahon's book focuses on *authority*, which he calls the *right to wield power* (26). McMahon contends that there are three main kinds of authority. The first is E-authority, the authority one gets through being an *expert* in a certain topic, and thus someone whose statements about that topic should rightly be deferred to (41). The second is authority that derives from the fact that often, people will benefit more if they cooperate with each other instead of living in an anarchic state where everyone just does what they want, and an authority can enable people to cooperate by simply following that authority: this is C-authority (44). Finally, I can be a (legitimate) authority over someone else because they *promise* to comply with my directives, which McMahon calls P-authority (46). To summarize: E-authority derives from the fact that an expert is more likely to be *factually correct* about their area of expertise, C-authority derives from the fact that the subjects do better *by their own lights* when they follow authority, as this enables them to cooperate, and P-authority derives from the fact that if I promise to follow someone's directives, I have a (certain) moral obligation to fulfill that promise by obeying them.

With this setup, McMahon then employs his parallel case argument. The authority of governments derives from C-authority, as they “make it possible for the individuals that [*sic*] reside in the territories they govern to cooperate in the production of the rule of law and other public goods” (123). It might appear that managerial authority is P-authority, since legally at least, employees contract with their employers, thus seemingly promising to obey their employers (196). However, the problem with P-authority is that it is relatively weak; specifically, it is legitimate to break promises if keeping them would be a significant moral violation—for example, caring for a sick child would justify breaking a promise to give a lecture (99-100). The problem is that there are many cases where an employee would have a legitimate moral reason to disobey her employer. For instance, she might disobey because she thinks an order would cause the company to unfairly gain at others’ expense (203-204). While it is possible to quit, if the moral violation is great enough it is also justifiable to remain in one’s job, collect pay, and disobey managerial orders in order to accomplish an important moral goal (206). Moreover, if managers order their employees to accomplish a collective task that those employees believe to be immoral, they are morally obligated to cooperate *with each other* in order to collectively disobey this evil order (215-216). Due to this possibility of collective resistance, McMahon says, if we understand managerial authority as P-authority, it is actually relatively limited and cannot be routinely exercised legitimately (229). But if employees can disobey managerial orders whenever they believe those orders to be immoral, they would be unable to reap the benefits of cooperation. Therefore, we can fix this problem by justifying managerial authority as *C-authority*, authority that enables its subjects to cooperate (234). Since managerial and governmental authority are both C-authority, then, they should be exercised in the same way,

which McMahon argues ought typically to be via democracy for reasons of fairness and welfare maximization (232). Hence workplace democracy is at least provisionally morally required, though he does think the case for it is weaker than the case for governmental democracy, as government is the *ultimate* source of authority which corporations are subordinate to, so democracy in the latter sphere can be overridden if other concerns outweigh the fairness and welfare-maximization benefits (263-265).

However, while it is true that both my theory and McMahon's assert that facilitating cooperation is the major function of governments and corporations, there are two major differences between our theories. First, his arguments for why managerial authority cannot be P-authority are unconvincing. As McMahon himself recognizes, if we assume that an employment contract functions as a "promise" of obedience made by employees, the potential moral harm must be great for an employee to be justified in disobeying orders *by themselves* while still collecting pay (206). It is not obvious to me that cases where following one's employer leads to an extremely severe moral harm are at all common—most people's jobs simply do not require them to engage in highly immoral actions. This is not to deny that many companies commit great harm in the *sum total* of their actions, merely that most *individual* employees do not cause much harm by their own actions. Elsewhere, McMahon discusses the possibility that employees could prevent a serious moral harm if they act collectively. In these cases, he says, an employee would be obligated to stop the harm *assuming that* they are able to act in concert with the other employees, while if they cannot, they should continue obeying orders (or quit) because they would have no hope of stopping the harm anyway. He asserts: "it seems plausible that cases in which there is so much disagreement that each should consider only the incremental change that

he can produce alone will be less common than cases in which each can find enough others who agree with him to form a group of at least threshold size” (220), in other words, that it is common for employees to find agreement about these issues and so be able to act collectively to stop what they all believe to be moral evil. Again, though, this is not at all obvious, since moral disagreement is rampant in society. It is not enough for McMahon to merely establish that there is “room for doubt” (*ibid*) about the reach of P-authority. After all, governmental orders are routinely disobeyed, but this (usually) does not lead to the collapse of governmental authority. For his argument to work, McMahon needs to demonstrate that the times when an employee would be morally justified in disobeying orders are *common enough* that if we allowed them to do so the economy could not function, and he has not done this. My theory sidesteps this issue by directly arguing that both governments and firms have power due to their coordinating function. (There are also some more technical problems with McMahon’s argument here, but those must wait until Chapter 4, after I cover coordination problems in detail.)

The second problem with McMahon’s argument is even more fundamental. Recall that McMahon’s book focuses mainly on *authority*, the right to wield power, while my essay will focus mainly on power itself. By mostly ignoring the issue of power, McMahon’s theory is fatally weakened, because it cannot respond to the argument that governmental authority is different from corporate authority precisely because the source of their *power* is different. I will explain. The circumstances under which it is appropriate to wield power depend on what precisely that power is. Shoving someone, punching them, and shooting them are all instances of imposing your power on another person, but the circumstances under which it is legitimate to punch someone are much narrower than those under which it is legitimate to shove them (and, of

course, it is almost never okay to shoot a person). In general, it appears that the more harm you cause someone by wielding power, the less legitimate it is to wield that power, all else being equal. But the argument I cited at the beginning of this introduction is precisely that state power is *far worse* than corporate power. All a manager can do is fire you, while the state can imprison or kill you. Therefore, even if it is true that both governments and firms only have *authority* when they facilitate cooperation, if we assume that their *power* derives from fundamentally different sources, it is still plausible to argue that governmental authority must be much more limited (in particular, by being accountable to its subjects) than corporate authority. McMahon even seems to tacitly recognize this, as he suggests that workplace democracy could be curtailed if it results in less economic investment than managerial autocracy, a position I highly doubt he would take with regard to governments (271-272). In sum, then, McMahon's theory ends up falling to the same objection as most of the other theories I have covered, the objection that states are different because their power rests on physical force. The following five chapters are an attempt to answer that objection.

## Chapter 1: What is Political Power?

In “Politics as a Vocation,” Max Weber writes, “a state is a human community that (successfully) claims the *monopoly of the use of legitimate physical force* within a given territory” (Weber 1946, 78). This theory of statehood can also be interpreted as a theory of political power: a state’s power consists in the fact that it controls the *legitimate use of force* in a certain community. Due to its ubiquity, I will henceforth call this theory of state power “the common theory.” If the common theory is true, we likely cannot draw a moral equivalence between states and firms, as firms do not have any sort of monopoly on legitimate physical violence (and even the physical violence they *do* wield is only legitimate inasmuch as the state authorizes them to wield it). However, I will argue in this chapter that the common theory is false, and therefore we need a better theory of state power, which I will give in Chapter 4.

To do this, I will begin in Section 1 by defining some key terms, including ‘state,’ ‘power,’ and ‘authority.’ In Section 2, I will explicate and briefly discuss the common theory. The remaining three sections contain my arguments against the common theory. First, in Section 3, I will show that the term “legitimate force,” which the common theory relies on, is incoherent; any interpretation of what precisely it means leads to insoluble problems. In Section 4, I will argue that the common theory cannot explain why the people who *directly* wield force, the police and army, obey the orders of civilian politicians. Finally, in Section 5, I will demonstrate that while the common theory asserts that citizens obey their state out of fear of punishment, in actuality they obey the state because they expect most other citizens to obey as well. The latter two arguments in particular are devastating objections to the common theory and make it necessary for us to develop a superior alternative to explain what state power consists of.

## Section 1: Power and Authority

This chapter concerns what, precisely, the state's power is. Before I begin, though, I need to clarify what I take (a) the 'state' and (b) 'power' to be, at least provisionally—and in particular, I need to distinguish between 'power' and 'authority.' Then, in Section 2, I will cover in some detail what I mean by “the common theory.” I begin with the state.

According to Stephen Krasner, there are four major theories of the state:

- “(a) the state as government, that is, as a set of personnel occupying decisional authority in the polity;
- (b) the state as administrative apparatus and as an institutionalized legal order;
- (c) the state as ruling class;
- (d) the state as normative order.” (quoted in Dusza 1989, 75)

To put my own spin on this categorization, we can conceive the state as either (a) the *specific persons* who make up the state; (b) the overall 'structure' or set of roles that those individuals inhabit; (c) the tool of the broad societal ruling class in a Marxist sense; (d) or as a system that defines the morality of the territory under its control. Perhaps there are additional conceptions of the state beyond these four, but that is irrelevant to me, because in this chapter I will be concerned solely with the state in the sense of conception (b). I will assume that the persons in government have power *due to* their position in the state, and so I will ignore those specific individuals<sup>1</sup>; I will be focusing on the state itself, so I will not address the question of whose interests in society it represents like (c) does; and, as I will discuss in a bit, I will not be concerned with the state in a normative sense. This being said, when I give my own theory of the

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1. A distinction is often drawn between the *government*—individual persons in positions of power—and the *state* as an institutional framework that persists across governments, but how exactly to understand this difference is complex and controversial. While some of my arguments in this chapter may be relevant to that debate, I do not think anything I say depends on its outcome, so I will mostly be ignoring that distinction in the pages that follow (though to avoid confusion, I have tried to avoid saying 'government' when what I really mean is the state).

origin and purpose of state power in Chapter 4, it will in some ways be similar to the idea of the state as normative order, but in this chapter, I will focus exclusively on the state in its descriptive sense: the entity that determines and enforces laws for a given population.<sup>2</sup>

It will be useful to clarify in more detail what I take the state to be. In his *Economy and Society*, Max Weber states:

“Since the concept of the state has only in modern times reached its full development, it is best to define it in terms appropriate to the modern type of state, but at the same time, in terms which abstract from the values of the present day, since these are particularly subject to change. The primary formal characteristics of the modern state are as follows: It possesses an administrative and legal order subject to change by legislation, to which the organized activities of the administrative staff, which are also controlled by regulations, are oriented. This system of order claims binding authority, not only over the members of the state, the citizens . . . but also to a very large extent over all action taking place in the area of its jurisdiction. . . . Furthermore, today, the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it.” (Weber 1978, 56)

Weber uses the word ‘authority’ in this quote, which I will ignore for now (later in this section, I will discuss what ‘authority’ is and how it relates to my aims in this chapter). What I want to focus on here is the fact that a centralized administrative/control apparatus which gives orders in the form of legislation that is implemented by a specialized staff is a very modern phenomenon. According to Karl Dusza, the term ‘state’ itself only started to be used during the Italian Renaissance to refer to the power apparatus of a “political entrepreneur” who sold his services to kings and princes, and it was only in the 19<sup>th</sup> century that the term was used to denote the centralization of political power and/or authority in a given territory (Dusza 1989, 78). Dusza thus warns against using the term ‘state’ too broadly, as that risks either imputing unique present circumstances to the past or keeping one’s analysis at an unhelpfully general level (79).

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2. Whether or not *territoriality* is a necessary feature of a state, or if something can be a state without a set territory (e.g. it has power over a certain set of individuals strewn across the globe), will also not concern me (though I do tend to believe that territoriality is not necessary).

I am not overly concerned in this essay with the proper definition of the word ‘state’ or the correct explication of the concept it refers to. Whether a state needs a centralized administrative/control apparatus, or whether something can be a ‘state’ while having a far more decentralized and/or unprofessional means of controlling its territory (such as European governments before the rise of the absolute monarchs) is beyond the scope of this essay. Rather, what matters to me here is the *relationship* between the entities we call ‘states’ and the people—the citizens—over whom the states hold power. There are some people (government officials) who say that certain policies are “laws,” and there are other people (ordinary citizens) who obey those laws. How do the governmental officials possess this power? What motivates the citizens to obey them? This essay will answer those questions. While I do believe my answer will apply to every political organization in history, not merely modern ‘states,’ I will focus on modern states since they are most relevant to us moderns.

This leads us to the second major concept I will discuss in this section: power. Now, ‘power’ is a vague notion at best, and I will not attempt a full account of it in this essay. As I said above, in a state, government officials give orders (make laws) and most citizens obey those orders (laws). The fact that citizens obey governmental orders is all I mean when I refer to the state’s ‘power.’ There are many other ways to think of power, of course. Steven Lukes outlines three major views of power: the “one-dimensional view,” which thinks of power in purely *behavioral* terms and thinks of power as the ability to get other people to do things they otherwise do not want to do (Lukes 2005, 16-19); the “two-dimensional view,” which focuses on the ability of those in power to control what becomes a political issue in the first place (22-23); and his own “three-dimensional view,” which defines power as *A* impacting *B* “in a manner

contrary to *B*'s [objective] interests" (37). Which of these theories, if any, is correct does not concern me here.<sup>3</sup> In this chapter, theories of power are only relevant inasmuch as they serve as possible explanations for why citizens obey the government's orders. I am also not here concerned with what might be called "group power" or structural oppression, such as the power that whites have over other races in a white supremacist society or that men have over women in a patriarchal society. While there are important connections between these regimes and the power states hold over their citizens, I do not have the space in this essay to explore those connections.<sup>4</sup>

I should, however, emphasize the distinction between 'power' and the concept of *authority*. What is authority? I will start answering that question by analyzing the three-part distinction Tom Christiano makes in the *Stanford Encyclopedia of Philosophy* between political authority as *normative*, political authority as *descriptive*, and power. Descriptive or *de facto* authority, Christiano says, means "that the state maintains public order and that it issues commands and makes rules that are generally obeyed by subjects because many of them (or some important subset of them such as the officials of the state) think of it as having authority in the normative sense" (Christiano 2013). Since this definition of *de facto* authority depends upon authority in the normative sense, to understand it we must first get a handle on normative authority, to which I will now turn.

According to Christiano, there are three major theories of normative state authority. The first is that (normative) authority exists when a political organization is *justified* in using some amount of coercive force against its subjects, though the precise amount of force it is justified in

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3. I will have more to say about Lukes's theory in Chapter 4.

4. That said, the analyses anti-racist and feminist theorists have conducted of these structural oppressions has influenced my view of the nature of state power (as well as corporate power).

using may vary. Note that this theory says nothing about whether or not the subjects have an *obligation to obey*; it merely asserts that a state needs to be justified in *applying* force, so it may still be legitimate for the populace to resist state coercion (*ibid*). This is Richard Flathman's definition: "Corresponding to the idea of the power to direct the actions of others we can introduce the idea of a right to do this—a right to tell others, within certain limits that will vary from case to case, what to do. This is authority" (Flathman 1980, 26). In other words, Flathman defines authority as the moral right to wield power; thus, an illegitimate government would have *power* but not *authority*.

By contrast, the second theory of normative authority states that the state's subjects *do* have an obligation to obey the state's orders if it has authority; i.e., a state with authority can impose *moral duties* on those it governs. This is in line with Joseph Raz, who says, "Authority is ability to change reasons" (Raz 1979, 19), and therefore "a law is authoritative if its existence is a reason for conforming action and for excluding conflicting considerations. 'Reason' here means a valid or justifiable reason" (29), though it is not clear to me from the text whether these reasons have to be *moral* or can merely be normative in a broader sense. Christopher Morris has a similar position: "On this view, political authority is not to be understood merely as justified force or coercion. Something is an authority only insofar as its directives are meant to be reasons for action" (Morris 2002, 176), and so "the state's authority, if justified, entails an obligation to obey" (213). In other words, for this theory of (normative) authority, a state's *authority* consists in the fact that its citizens have some sort of moral or normative *obligation* to obey it.

Finally, the third theory of normative authority is "the idea that authority has the right to rule" (Christiano 2013). The extent of this right varies; it may just mean that it is legitimate for

the authority to issue and enforce commands, in which case this theory is similar to (or the same as) the first one, or it could be the more robust claim that subjects have a duty either not to interfere with or to positively obey the authority's commands (*ibid*). However, I do not see a major difference between this 'robust' theory of the right to rule and the second interpretation of authority discussed above. Christiano claims that the 'right to rule' in the robust sense describes "a kind of ideal moral community" where the citizens are engaged at "a deep moral level," while the second interpretation, by contrast, says that "subjects have duties but those duties are not essentially connected to anything in the authority" but are rather independent reasons for action (*ibid*). Perhaps Christiano is suggesting an ideal democratic society, where the people obey the law partly because the people are the ultimate authors of the law.<sup>5</sup> But even in such an ideal democratic society, we can ask what motivates the minority to obey the majority's laws, so this distinction between authority in an "ideal" community and authority in a non-ideal one is irrelevant to my purposes. Hence, for the remainder of this essay I will focus only on the first two normative authority theories Christiano discusses.

Michael Huemer puts the difference between them in the following way:

- “(i) *Political legitimacy*: the right, on the part of a government, to make certain sorts of laws and enforce them by coercion against the members of its society – in short, the right to rule.
- (ii) *Political obligation*: the obligation on the part of citizens to obey their government, even in circumstances in which one would not be obligated to obey similar commands issued by a nongovernmental agent.” (Huemer 2013, 5)

Huemer's term 'legitimacy' refers to the *first* theory of normative authority, while his term 'obligation' refers to the *second* theory. It is important to emphasize that these two theories need not go together (though they may). As Morris says, "that there is no general obligation to obey

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5. I thank Carol Gould for suggesting this possibility.

[does] not mean that states may not justly coerce those subjects to its laws” (Morris 2002, 216). In other words, a state may (at least theoretically) justifiably *coerce* its citizens without those citizens thereby being (morally) obligated to *obey* the state’s orders. Specifically, someone may be perfectly justified in breaking the law, and *despite that* the state may be perfectly justified in punishing them for breaking that law. Therefore, as Christiano says, it is not necessary to attempt to decide which theory gets at the “true” meaning of authority; rather, we should accept that all the theories get at an important aspect of it (Christiano 2012).

Now that I have discussed various ideas of what normative authority consists of, I can return to the main point: the difference between authority and power. Recall that descriptive or *de facto* authority is the situation where a state maintains order and gives commands and is obeyed because many of its subjects *believe* the state to have normative authority. By contrast, Christiano says, *power*

“is concerned with the state's or any agent's ability to get others to act in ways that they desire even when the subject does not want to do what the agent wants him to do. Political power does not require any kind of pro attitude toward the agent on the part of the subject, nor does it require that the state is actually successful at securing public order. It operates completely in the realm of threats and offers.” (*ibid*)

One way of understanding the difference between these concepts is to see them as building off of each other. *Power* is merely the ability for the state to compel its subjects to obey its will. *Normative authority* is the idea that the state is *morally justified* in applying its power (or, going further, that its subjects are *morally obligated* to obey). Finally, *descriptive authority* is when (at least some important subset of) the state’s subjects *believe* that it has normative authority.

In this essay, I will not be concerned at all with normative authority; i.e., I will not discuss what justifies the state’s power, or indeed whether state power can ever be morally

justified at all. My argument focuses rather on the state's *power*, the mere fact that it is *able* to compel obedience. I will analyze what the state's power consists of in this chapter, conduct a similar analysis of corporate power in the following one, and demonstrate that whatever justifies state power is also the only thing that can justify corporate power in the third. In other words, what is important to me here is not what justifies power, it is merely that *whatever* justifies state power is *also* the only coherent justification for corporate power (and the same *mutatis mutandis* for whether or not people are *obligated* to obey state and/or corporate power).

Descriptive or *de facto* authority, on the other hand, will be relevant to this chapter, as the common theory uses it (or something like it) inasmuch as it says that a state's power consists in its control over *legitimate* force in the territory. As David Ciepley argues:

“[I]t would be misleading to define authority, as is often done, as ‘legitimate power,’ or legitimate force, as if the same degree of power would be present, though uglier, were it not legitimated. The ability to create a duty, in the case of governing authority, or elicit deference, in the case of epistemic, customary, and sacred authorities—that is, the ability to secure willing cooperation with one's directives or counsel—brings a power that naked force will never have. It is generative. Thus, having legitimate authority both constrains one's power, rendering certain actions illegitimate, and increases it, making other actions possible.” (Ciepley 2014, 231)

In other words, simply defining (normative) authority as “the legitimate use of power” implies that legitimacy and power are unrelated; however, (descriptive) authority—the fact that a number of citizens obey the state *out of their own free will*—significantly increases the state's power, and thus the two are tightly interwoven. Now, as my added parentheticals in the previous sentence make clear, Ciepley is somewhat conflating descriptive and normative authority in his argument. Still, the main point is coherent: a state's *power* at least partially consists in the fact that it has *authority* (i.e., that many or most of its subjects believe it to be legitimate). This kind of argument can be used to support a version of the common theory, and I will discuss it in detail

during Section 3. However, I must emphasize here that descriptive authority is only relevant inasmuch as it provides a theory or explanation of *political power*. In other words, I am not concerned with descriptive authority in and of itself; the correct theory of descriptive authority, the extent to which it exists in any given society, etc., are not pertinent to my goals in this chapter. I am only concerned with descriptive authority if (and only if) it helps us understand what (political) *power* is.

I will end this section with some terminological notes. First, while I personally think that in common usage the English word ‘authority’ is often just a synonym for ‘power,’ I will mostly avoid using it in order not to cause confusion and will instead stick to ‘power,’ with the understanding that I mean it purely in the sense of the state’s ability to compel obedience. Second, I will use ‘force’ and ‘violence’ interchangeably. Third, while we usually distinguish between two separate aspects of state violence, violence that is directed inward at its own population (the police) and violence that is directed outward at foreigners (the army), I will more or less use each of these as examples interchangeably. While I recognize that there are differences between the police and army, most or all the things I say will apply to them both. Finally, I will use the word ‘citizen’ to refer to any individual the state asserts authority over,<sup>6</sup> even though this includes people whom the state itself may not consider full “citizens,” such as undocumented immigrants. I use the term ‘citizen’ as opposed to a more general term like

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6. Do government officials themselves count as “citizens” under my definition? It depends on whether or not they are themselves subject to state authority, in addition to wielding it. Absolute monarchs, then, are not citizens, but the heads of state in democratic nations, who are (at least theoretically) subject to the rule of law, are. There are some in-between cases, such as the American President, whom some believe is immune to prosecution (though not impeachment). These complexities will not change my argument in this chapter, though, so I will set them aside.

‘resident’ because some residents are not technically under the authority of the state they reside in (e.g., ambassadors).

## Section 2: The Common Theory

It may seem like an unfair generalization just to assert that there is a “common theory” of the state at all. As we saw in the previous section, Weber himself held a rather complicated theory of the state, and it is simply untrue that most or even a significant portion of political theorists agree with him down to the last detail. That being the case, what precisely am I criticizing, and what am I proposing to replace it with?

First, I am not concerned with theories of the state *as such*, but rather, theories of the state’s *power*. Throughout human history, there have been many political entities that give orders and manage to compel others to obey those orders. Whether those entities are *states* or some sort of non-state political organization is not so relevant to me. Perhaps there are specific features that a ruling apparatus must attain to be considered a ‘state’ and, for example, tribal leaders do not possess those. But what I want to focus on is not the difference between a state and other, non-state political bodies, but the difference between the state and the citizens over whom the state wields power. The common theory I am objecting to, then, is not a theory about the state *per se*, but rather a theory about the source and nature of state *power*, which is ultimately a *relationship* between the state and those who obey it.

When we consider actually-existing states, we see that they often imprison or execute “criminals” who do not obey their orders. Thus, the most obvious theory of state power—the one I call the “common theory”—is that the state has power because it can employ *physical force*

against those who disobey it. This is Thomas Hobbes's view in *Leviathan*, where he claims that the purpose of the commonwealth is the following:

“The final cause, end, or design of men, who naturally love liberty, and dominion over others, in the introduction of that restraint upon themselves, in which we see them live in commonwealths, is the foresight of their own preservation . . . that is to say, of getting themselves out from that miserable condition of war . . . when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants.” (Hobbes 1955, 109)

In other words, because people would not obey laws “without the terror of some power” (*ibid*), the purpose of the commonwealth, or the state, is to provide such terror by exacting punishment on those who disobey the law (break their covenants). While it is true that Hobbes argues that the commonwealth is formed out of covenants the citizens make with each other, recall that I am not concerned with what the state is (or how it originated) but in what the state's *power* and *purpose* are, and Hobbes clearly believes these to be ensuring citizens do not harm each other by exacting punishments on those who do.

The situation is similar with John Locke. At the beginning of his *Second Treatise*, Locke gives this account of political power:

“Political power, then, I take to be a right of making laws, with penalties of death, and consequently all less penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and in the defence of the commonwealth from foreign injury, and all this only for the public good.” (Locke 1823, 106)

While the emphasis is different from Hobbes, the core of the theory is the same: political power involves the ability to make laws and punish those who disobey them, up to and including the death penalty. And this view is shared by Max Weber as well:

“ ‘Every state is founded on force,’ said Trotsky at Brest-Litovsk. That is indeed right. If no social institutions existed which knew the use of violence, then the concept of ‘state’ would be eliminated, and a condition would emerge that could be designated as ‘anarchy,’

in the specific sense of this word. Of course, force is certainly not the normal or the only means of the state—nobody says that—but force is a means specific to the state.” (Weber 1946, 78)

In other words, while physical force is not the *only* weapon at the state’s disposal, it is (according to Weber) the only method that is *unique* to the state and so distinguishes it from other forms of organization. Perhaps the pithiest statement of this view is Mao Tse Tung’s famous quote, “Political power grows out of the barrel of a gun” (Mao 1960, 13).

However, there is a problem with the brute view just stated: many people use force or violence to get their way. What separates the *state* from a common criminal or a mafia organization? As Weber notes, many organizations throughout history have wielded physical force to assert their power. This may be the motivation behind the ‘legitimate’ qualification: “a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory” (Weber 1946, 78), the idea being that anyone who uses violence without being authorized by the state to do so is an *illegitimate* criminal. To put it another way, in order to differentiate between the state and non-state power centers, we introduce the notion of *authority*: a state is the entity whose usage of force is *legitimate* (in Locke’s words, it has the *right* to make laws and execute them). I will examine how descriptive authority or “the legitimate use of physical force” relates to the broader common theory in great detail in the next section, so I will not discuss it further here. Right now, I just want to emphasize that the core of the common theory is the seemingly commonsensical idea that the state has power due to its control of (legitimate) physical force, so people obey it (at least primarily) because, if they do not, they will suffer the state’s violence. While different theorists build off of this idea in

different ways, the core just described can be found across many, if not most, of the influential political theories in the Western canon.

### Section 3: The Ambiguity of Legitimacy

To repeat, the common theory asserts that the state's power consists in the fact that it possesses a monopoly on *legitimate force* in a given territory, i.e., anyone who utilizes violent force is either an agent of the state, authorized to do so by the state (e.g. hunters), or a criminal. The "legitimate" qualifier is necessary because no state has a monopoly on *all force* in its territory. Not even the most dictatorial state succeeds in eliminating all crime; there are always private individuals who attempt to use force to achieve their goals. The idea behind the common theory, then, is that in a territory controlled by a state, only violence committed by the state or those it authorizes is "legitimate," and all other violence is "criminal."

This raises the question, what precisely is meant by "legitimate force"? Similar to "authority," "legitimate" can be interpreted in two ways: normative or descriptive. The normative interpretation takes "legitimate force" to mean "force that is *actually* legitimate," i.e., force that is morally acceptable to use. The descriptive interpretation takes "legitimate force" to mean "force that some entity has decided/declared to be legitimate to use."<sup>7</sup> The normative interpretation leads to the result that any state whose use of force is *not* morally legitimate is not really a state at all. For example, since (presumably) it was justified to use violent force to resist and even overthrow Nazi Germany, then under this interpretation, Nazi Germany did not have a monopoly of *legitimate* violence and so was not a state. In general, any state whose use of force

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7. It is also possible to understand "legitimate" in both senses at once: that the force is morally legitimate *because* (e.g.) the state declares it to be so. However, since I will be criticizing both the descriptive and the normative interpretation individually, all my criticisms will also apply to any theory that combines them.

is consistently immoral would at least have its claim to statehood weakened, if not entirely nullified. Assuming democracy is the only legitimate form of government, this would include the vast majority of states that have ever existed in the past and the present. Even so-called democracies often engage in violence we believe to be immoral.<sup>8</sup> The absurdity of these conclusions shows the problem with the normative interpretation: the question at hand is not which form of government is the correct one, but what the state's power *is*. Thus, we should go with the descriptive interpretation of "legitimate force" as "force that some entity believes or has declared to be legitimate."

Now the question is, which entity? One possibility is that some external body grants states legitimacy, this body being other states individually or the United Nations collectively. Such a theory is offered by Allen Buchanan, who argues that a state should only be recognized as legitimate by other states if it meets the following criteria: "(1) a minimal internal justice requirement, (2) a nonusurpation requirement, and (3) a minimal external justice requirement" (Buchanan 2007, 266). By #1, he means that a state should be recognized "if and only if it protects the basic human rights of those upon whom it enforces the laws within its jurisdiction and does so by means that respect those same basic rights" (269). #2 requires that a state not come into existence by violently or unlawfully overthrowing a legitimate state (275). Finally, #3 mainly requires a (potential) state not to launch an aggressive war against another state (272). If a state meets all these requirements, Buchanan argues, it should be recognized as legitimate—but what precisely does this entail?

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8. For example, if the Iraq War was immoral, does that mean the US government is not actually a state—or at least, does that in itself make its claim to statehood weaker?

Buchanan distinguishes between the *function* and *content* of recognitional legitimacy. The function is to give an entity the status of “legitimate state” under international law, “with all the powers, liberties, claim-rights, and immunities that go with that status” (263). These powers and claim-rights are the *content* of recognitional legitimacy and include:

- “1. the right to territorial integrity;
2. the right to noninterference in internal affairs, i.e., internal self-determination (subject to certain restrictions);
3. the power to make treaties, alliances, and trade agreements, thereby altering its juridical relations to other entities;
4. the right to make (just) war;
5. the right to promulgate, adjudicate, and enforce legal rules within its territory (subject to certain restrictions.” (*ibid*)

Can one plausibly argue that the use of force in a given territory is “legitimate” if *other* states, or the international system as a whole, view(s) it as “legitimate”?

The answer is no. To explain, we need to distinguish between two ways of understanding recognitional legitimacy, similar (again) to the two types of authority I discussed in Section 1 and the two types of legitimacy I discussed earlier in this section: *descriptive* recognitional legitimacy and *normative* recognitional legitimacy. The latter interpretation says that by recognizing an entity as a state, other states give it *normative sanction* to commit certain behavior; i.e., they render its usage of power (in some cases) morally permissible. This appears to be Buchanan’s view, as all five items he lists as being the content of recognitional legitimacy have to do with the state’s *moral rights*: the fact that the state can do certain things—enforce laws, make treaties, launch a just war—without being punished by other states. They have nothing to do (directly) with the question of whether the state is *actually* a state; they purely concern the rights the state has *vis-à-vis* other states. Therefore, Buchanan’s theory is actually a variant of the normative interpretation of “legitimate force,” which I argued against above.

Alternately, one can understand recognitional legitimacy (contra Buchanan) as purely descriptive: One can argue that an entity *really is* a state if and only if it is recognized as such by other states and/or the international system. In other words, if state A is recognized as legitimate by states B, C, and D, that does not make it legitimate *morally*, but it does make it *a state de facto*. There are several problems with this, though. First, what happens if some states (B and C) recognize A as legitimate, but other states (D and E) specifically declare that A is *illegitimate* (hardly an uncommon historical occurrence)? Is it enough merely to receive one state's recognition, or do you need a majority, or is there a different restriction? I suspect that all possible answers to these questions are *ad hoc*, rendering this theory highly implausible. More fundamental, though, is the following problem. If something is a state because other states recognize it, what makes *those other states* states? Note that Buchanan himself says that the international legal system itself needs moral justification and he attempts to give it one (Chapter 7). Similarly, we can ask: if A became a state because B, C, and D recognized it as legitimate, what made B, C, and D states? Perhaps they were recognized by states E, F, and G—but who recognized *them*? There are only two possible endpoints for this regress: either an original “first mover” *declared itself* to be a state—a view I will discuss in the following paragraph—or two or more non-states Y and Z recognized each other and they all became states at once. Functionally speaking, though, this is essentially the same as an entity recognizing itself as a state. Suppose that Y says that it is a state because Z recognizes it as legitimate. But Z says it is a state because Y recognizes *it* as legitimate. Hence, Y's legitimacy is ultimately founded on *Y's* word, since Z is only considered a state due to Y. To put it another way, the idea behind this interpretation of legitimacy is that something becomes a state because it is recognized by an external state.

However, if Y and Z become the *first states* by recognizing each other, then they are not really external to each other; the legitimacy of one is intimately tied up with the legitimacy of the other. Therefore, this descriptive modification of Buchanan's theory ends up reducing to the idea that the *state itself* determines itself to be legitimate, at least for the first states, a view I will now discuss.

I have discussed problems with the view that a state's use of force becomes legitimate when it is recognized as legitimate by *other* states. The second interpretation of "legitimate force" is, as I just alluded to, that the *state itself* determines its use of force as legitimate—i.e., when we say an organization has a monopoly on legitimate force (and is thus a state), we mean it has a monopoly on force that *the organization itself* regards as legitimate. However, the problem with this view is that (almost) everyone regards their own use of force as legitimate. For example, a mafia group that uses violence to make money, fight rival gangs, etc., may very well consider itself to be a "legitimate" authority. It follows from the view under discussion that as long as a certain entity regards its use of force as legitimate and others' use of force as illegitimate (in a given territory), it counts as a state. But that means that just about *anyone* can be a state, including criminal syndicates.<sup>9</sup> This would render the concept of "statehood" so broad as to be almost useless analytically.

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9. This analysis reveals another way in which the "two entities mutually recognize each other as legitimate and become states simultaneously" view is functionally identical to the view that an entity can declare itself to be a state. If any two entities can become states merely by recognizing each other, then effectively anything can become a state as long as it finds one other partner in crime. One could object that this process only works for the *first states*, but once states exist, you need to be recognized by them to count as a state. However, this seems extremely *ad hoc* and implausible; on what reasonable basis can we give something such a huge first mover advantage here?

A third option, perhaps the most obvious, is to say that an organization is a state if its use of force is regarded as legitimate by *the population* in the territory it controls, i.e., an organization is a state not just in case it has power, but only if it also has *descriptive authority*, in the sense I discussed in Section 1. Indeed, this appears to be Weber's view: "Experience shows that in no instance does domination voluntarily limit itself to material or affectual or ideal motives as a basis for its continuance. In addition every such system attempts to establish and to cultivate the belief in its legitimacy" (Weber 1978, 213). While this may seem plausible at first glance, it is still ultimately untenable. First, what percentage of the population must regard the state's violence as legitimate in order for it to count as a true "state"? It has to be lower than 100, as few if any states have achieved consensus. 50% also seems high; there are many examples throughout history of a state ruling the majority of its population through fear and repression, especially when the population includes a large number of slaves. More fundamentally, assigning *any* percentage number is misguided, as it seems ridiculous to argue that an organization counts as a state if X% of its population regards its violence as legitimate, but stops being a state if even *one less person* stops regarding it as such. But what is the alternative to assigning a percentage if we want to salvage the idea that what counts is whether the population considers the state's violence legitimate?

Joseph Raz argues, "we could well find situations in which only some of the population acknowledge the authority of the relevant person, provided they are sufficiently prominent or powerful to enable him to impose his rule on the others" (Raz 1979, 28). But this does not solve the problem, as it is unclear *how many* (what percentage of) prominent or powerful supporters an organization needs before it counts as an authority or a state. Moreover, Raz's statement here

only pushes the issue one step back: from what do those prominent or powerful supporters derive *their* authority? Perhaps they have their own less-prominent supporters, and we can go down the chain until we reach the least-powerful authority who is believed legitimate by all or most of their powerless supporters, whose support in turn legitimates the authorities one step above them. However, this seems wildly implausible, especially for the modern world where centralized states are the norm.

Second, it is unclear whether descriptive authority relies on *action* or belief, and there are serious problems with both alternatives.<sup>10</sup> For example, suppose that I am a subject of a repressive, dictatorial state and am asked whether or not I think that state is legitimate. I will probably agree in words that it is, but if I only say that because I would be imprisoned or killed otherwise, does that really count? If it does not—if people have to *truly believe* their state to be legitimate—then how do we know that *any* state has legitimate authority, since we lack access to other people’s internal mental states? If it does count, meaning that any state can achieve descriptive authority as long as it successfully coerces enough of its populace to act like it does, this view ends up devolving into the earlier view that a state can declare itself to be legitimate—all an organization has to do to become a “state” is gather enough power to successfully oppress a certain population. No matter which direction the common theorist chooses, then, their theory runs into trouble.

There is an even deeper problem with this interpretation of “legitimate force,” though. To show it, I will examine what Weber calls the “three pure types of legitimate domination”: rational, traditional, and charismatic (Weber 1978, 215). The rational type is essentially legal authority, which Weber says involves believing in an impersonal order of abstract rules that

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10. I thank Carol Gould for inspiring this objection.

everyone in the society must obey, such that what people are really obeying is not the ruler as a person but the *impersonal* legal order (217-218). The traditional type of domination depends on “the sanctity of age-old rules and powers”; people are obedient to authority due to personal loyalty and the fact that tradition designates them as legitimate (226-227). Finally, charismatic domination rests on the belief that a certain person is extraordinary or even superhuman, and so the duty of the ordinary is to recognize that this extraordinary person deserves obedience and to act accordingly (241-242). Note that in none of these cases is the *authority themselves* the true source of legitimacy. What the citizens believe is that the law, tradition, or specific extraordinary/supernatural qualities lead to legitimate rule; the authority figure(s) themselves are only legitimate inasmuch as they properly meet these qualifications. Even in the case of charismatic authority, which appears closest to the idea that legitimacy resides in loyalty to the authority figure as a person, Weber says, “If proof and success elude the leader for long, if he appears deserted by his god or his magical or heroic powers, above all, if his leadership fails to benefit his followers, it is likely that his charismatic authority will disappear” (242).

The problem is this: abstract principles such as the law, tradition, or extraordinary qualities *cannot use physical force*. Only humans can.<sup>11</sup> Therefore, under the theory that a state’s power lies in its monopoly on violence, it makes no sense for abstract principles like these to have *any* power over the people who actually utilize violence. To put it another way, if the font of legitimacy (and thus, under this interpretation of “monopoly of legitimate force,” power) is abstract principles like “law” or “tradition,” and *not* the actual people in charge, then it is *those principles* that really have power. If the principles hold ultimate power, then, state power cannot rely on violence in the end, since abstract principles are incapable of violence. If what citizens

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11. Technically nature can as well, but that is not relevant.

really obey are not government officials *per se* but rather *the law itself*, how can their obedience be due to force? (There are additional complexities here, such as the idea that the law authorizes the police and army to act in its name, but I will wait to fully address them until the following section, since this issue is more directly relevant to that section.)

One may object that it is only the *power* of the state that rests on violence, while the belief in its *legitimacy* rests on abstract principles. Weber himself could not coherently hold this position, since as discussed, he believes that a chief motivation for people to obey the state is their belief in its legitimacy.<sup>12</sup> To reiterate, what concerns me here is the nature of state power, by which I just mean the fact that the state gives orders (makes laws) and people (mostly) obey those orders (laws). Hence, for Weber, the population's belief in the state's legitimacy (descriptive authority, to use Section 1 terminology) is an *element of* the state's power, and so my previous objection applies: if the true object of legitimate belief is abstract principles, it is those abstract principles that hold power, not the individuals in government.

To clarify this point, it might be helpful to briefly summarize where we are in the dialectic. The common theory asserts that the state has power due to its monopoly on legitimate force. I am analyzing the interpretation that legitimate force is force the populace *believes to be* legitimate. So the common theory becomes: "the state has power due to its monopoly on force *believed to be legitimate* by the population." Weber, among others, further believes that this belief in legitimacy is one of the main sources of state power. But therein lies the contradiction: if people follow the state's orders (laws) because they believe they *should*, then what truly has power is not the individuals in state authority, but rather the *abstract principles* that justify their rule, such as the law or tradition. This is because it is the law or tradition that people are *really*

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12. As does Ciepley, whose view I briefly discussed in Section 1.

following; they only follow state officials inasmuch as the law or tradition *authorizes* them to rule. Then, since the law and tradition obviously cannot wield force themselves, it is clear that political power is not based on violent force but rather on something else.

But perhaps Weber is wrong that the state's power is based on belief in its legitimacy. A common theorist could instead argue that the primary reason people obey the state is fear of its violence, and so belief in its legitimacy is a vestigial belief, that does not substantially impact the citizenry's behavior. But if belief in legitimacy does not affect behavior much, why include it in one's theory of the state at all? As I discussed previously, the entire point of the "*legitimate force*" qualification is to differentiate states proper from organized crime and other non-states that use violence to achieve their goals. If belief in the state's legitimacy does not change behavior, it is not clear why *that* should be the criterion that differentiates states from non-states. After all, what we are concerned with here is not semantics, but understanding the world. If people obey the mafia and the state for the same reason, it does not seem analytically useful to draw a sharp distinction between them, and so there is no need to make the "*legitimate force*" qualification at all. This more cynical view that the state and organized crime syndicates are essentially the same thing will be rebutted in the next two sections.

A second contra-Weber option for the common theorist is to assert that the ultimate font of political authority is not the law or tradition, as Weber argues, but is instead *the very people* in power themselves. My objection to Weber's view, that it is contradictory since principles cannot wield force, does not apply to this theory: it consistently designates the humans who actually wield force (and not abstract principles) as the ones who hold power. However, this view is extremely implausible empirically. Even in the case of cult leaders, where it would seem most

applicable, most cultists likely do not follow their leader *merely because the leader is who they are*, but because the followers believe the leader's *ideas are correct*. As Weber says, even in cases where a single charismatic individual holds all the power, people obey the leader *because* they think the leader has certain extraordinary qualities, not merely due to the leader's identity as themselves. When we turn our attention to modern states, where many if not most citizens believe it is the *law* that designates government officials as legitimate, this view seems even more implausible. A final problem is that, by and large, the people who *actually* implement violent force are not the heads of state who hold the citizenry's allegiance, but rather ordinary police and soldiers, whom practically nobody thinks are the ultimate authorities. Hence, even if it is true that people are directly loyal to the head(s) of state (and not the law or tradition), that does not save the common theory, for it does not explain how the head of state holds power over *the police and army*. I will give much more attention to this objection, which gets to the very heart of the common theory itself, in the following section.

Before moving on, I will consider one final attempt the common theorist could make to save their view. At the end of the day 'legitimate' is just one word, they might say, and the general idea behind the qualification—the state is the sole entity whose use of violence is "legal"—makes sense, even if the word 'legitimate' is unclear and might not be the best way to elucidate this concept. But the problem is not just one term; the issues we have seen with the concept of "legitimate force" are merely one result of far deeper problems with the common theory, namely that it misunderstands both (a) the nature of the state's use of violence and (b) the reasons the citizenry obeys the state's orders. I will address each of these in turn in the following two sections.

#### Section 4: The Nature of State Violence

In this section, I will argue that the common theory fundamentally misunderstands how and why the state uses (and threatens to use) violence. To begin with, I will ask: who are the heads of state in the United States? The natural answer is the President, Congress, and Supreme Court. However, none of these individuals deploy force themselves—the police and army do. Assuming that the state’s power consists in its monopoly on (the legitimate use of) force, then, we should conclude that *the police and army* are the heads of state, not the President or Congress. In other words, if state power is ultimately based on violent force (or the threat of violent force), it would appear that the true heads of states—the people really in charge—are the ones who actually *use* violent force, and that is the police and army, not the President. But not only is this (highly cynical) conclusion unintuitive, I will also show that it does not even work on its own terms.

Before discussing that, though, I will address three arguments a common theorist might make to salvage the idea that the President/Congress really are the heads of state in the US<sup>13</sup> under their theory. Those arguments are: (a) Since the police and army obey the orders of the President and/or Congress, the President and Congress are really the ones who implement violence; (b) Since the police/army are part of the state, the violence they commit can be attributed to the state as a whole; (c) The law serves to bind together civilian officials and the

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13. I will continue to refer to the US as my main example, but I believe my argument works for any modern state, with appropriate modifications. For instance, to switch the example to the UK, replace “President” with “Prime Minister” and “Congress” with “Parliament.” Of course the UK Prime Minister is not precisely analogous to the US President, so a few other aspects may have to be modified as well. Similarly, many countries lack strong executives, particularly those based on the parliamentary system, so parts of my examples would have to change to fit those countries. Nonetheless, I do not think any of my arguments depend on features unique to the United States, though I do not have the space to defend that claim here.

police/army, giving both of them their legitimacy. I will address each of these arguments in turn. To begin with (a), the argument that the President wields force since they give orders to the police/army misses the point. The issue here is what political power consists in or is based on. If it really is just violence (and the threat of violence), then those who wield the implements of violence are the ones with true political power. The fact that they happen to obey the orders of someone else is irrelevant. This obedience is merely a *choice* that they make, a choice not under the aegis of political power (Since again, assuming political power is based on violence, they are the ones who truly hold political power) but rather one that is made for other reasons. It is a choice, moreover, that could be revoked at any time—something that has often happened in human history. The common theory cannot merely rest on the fact that the police and army happen to obey the civilian government (for now); it must explain why, even though they control the actual implementation of violent force, they are not the ones who hold ultimate political power.

To approach this point in a different way, an analogy may be appropriate. In an absolute monarchy, we typically think that the monarch is the one who ultimately holds political power. However, they may very well—and historically, many have—follow(ed) the advice of another person or group of people in most or all of their decisions. But even in the extreme case where they just do the bidding of one other person (for whatever psychological reason), that other person does not just *become* the head of state. At any time, the monarch could choose to stop following their advice, at which point the adviser loses whatever political influence they once had. In other words, someone does not hold ultimate political power merely because *their orders are followed*; political power lies in something else. According to the common theory, this

“something else” is the monopoly of (legitimate) force. Therefore, the fact that the politicians’ orders are followed is irrelevant. What matters is who controls the means of violence, and that is the police and army.

Moving on to argument (b), the common theorist could say that, while it is true that the police and army are technically the ones who implement violence, they are part of the *same organization* as the President and Congress—the United States federal government. As the police and army are *part of* the state, then, the actions they commit can accurately be attributed to the state as a whole—much like how, if I threw a rock into a window, the act of breaking the window can be attributed to my entire person even though “technically” it was only my arm that threw the rock. Therefore, it is still truthful to say that the state *as a whole* holds a monopoly on legitimate force.

There are three problems with this argument. First, let us take a closer look at the analogy. It is true that the heads of state order the police and army to commit violence, much as my brain “ordered” my arm to throw the rock. But there is a key difference: my arm is a non-conscious object that has no choice but to obey my head’s orders; the police and army, on the other hand, are autonomous individuals who *choose to* obey orders—but could potentially choose otherwise. It is much less obvious, therefore, that the police and army’s use of violence can be directly attributed to the noncombatants who order them.

Second, the objection is based on the assumption that the state is (more or less) unified and therefore that the police and army belong to the *same organization* as the politicians who command them. However, the common theorist is not entitled to this assumption, because the nature of state power is closely connected to the question of how a state is unified. The reason a

state can (more or less) function as a unified group is precisely the fact that some individuals in that state's ruling apparatus have power over other individuals; if the President did not have power over the army, the likely result would be a military revolt. In other words, it is not merely the state's power over its territory that we need to explain—we also need to explain the *politicians'* power over the *soldiers*. Therefore, a theory of state power cannot merely assume that a state is unified and go on from there. It must explain how a state becomes unified in the first place. Argument (b) fails to provide such an explanation, and so it fails. (Argument (c) attempts to explain the state's unity via the rule of law, so it avoids this problem, though as we will see it has problems of its own.)

The third problem is related to the second. What we are concerned with here is what gives a state power. If the common theory is correct that (the threat of) violence is the basis of state power, then it is really the police and army who have ultimate political power and the civilian politicians are subsidiary. The police and army may *choose* to obey orders, but as long as we assume state power is based on violent force, their commanders do not have *power* over them, so the police/army must be obeying for non-political psychological reasons<sup>14</sup>. The extent to which civilian politicians are *to blame* for the violence the police and army commit is irrelevant to me here; what is important is that they are not the ones with *final power* since they are not the ones who directly control the means to commit violence. One could argue that, since they are the ones who set military policy and give orders, they are the ones who *decide* when and how state violence is to be utilized. But as I pointed out in response to argument (a), someone with political power does not lose their power just because they *happen to* do what someone else says. If

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14. I will discuss this idea of the army obeying the President for psychological reasons, not political ones, later in the section.

political power is ultimately based on force, then those who wield force are the ones with power—the fact that they choose to follow the decisions other people make is irrelevant.

These problems lead to the third possible argument a common theorist could make to save the idea that the President/Congress hold ultimate political power. I asserted that the common theory needs an explanation for how the army and the politicians form a coherent, at least semi-unified whole; in particular, they need to explain *why* the army obeys the President if political power merely consists in control of the implements of violence. This is where argument (c) comes in: the common theorist could argue that *the law* provides this glue.<sup>15</sup> Specifically, they could say that the army obeys the President because the law requires them to, and on the other hand, the President and other civilian politicians are in power because the law designates them as such. Modern Western political theory does insist that in a free state, the law is sovereign, not individual persons; similarly, we could say that what truly holds power in a modern state is precisely the law, and it simply designates certain people (the politicians) to be in charge of others (the army) who actually implement the violence that forms the basis of state power. These individuals then act in accordance with their roles, the duties and obligations of which are designated by law.

In order to analyze and rebut this argument, I will use H. L. A. Hart's influential theory on the nature of law. According to Hart, a legal system consists of "the combination of primary rules of obligation with the secondary rules of recognition, change and adjudication" (Hart 1994, 98). Primary rules impose obligations on the populace that, if broken, result in serious social pressure or worse, as they "are believed to be necessary to the maintenance of social life or some highly prized feature of it"; they include rules against violence, lying, etc (86-87). However, it is

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15. I thank Carol Gould for this argument.

possible to have such rules without having *law* as such. Law requires the secondary rules, so-called because they are rules *about* rules: a rule that specifies which features a rule must have to count as a primary rule for the group (94-95), rules that state what must be done to change the primary rules (95-96), and rules that empower certain individuals to determine when a primary rule has been broken (96-97). The secondary rule that concerns us here is the first one, which Hart calls the “rule of recognition,” so I will now examine that in further detail.

According to Hart, the rule of recognition is supposed to solve the issue of *uncertainty*. If all rules are unofficial and unwritten like customs, there are no authoritative procedures to settle disputes about whether something is, in fact, a rule, or what its content is, for “such a procedure and the acknowledgement of either an authoritative text or persons involve the existence of rules of a type different from the rules of obligation or duty which *ex hypothesi* are all that the group has” (92). In other words, if we stick only to the level of “1st-order” rules forbidding murder, assault, theft, and the like, we have no way to determine whether a particular custom *really is* a custom of the group—aside, presumably, from fighting about it. A “2nd-order” rule of recognition solves this problem: it “will specify some feature or features possession of which by a suggested rule is taken as a conclusive affirmative indication that it is a rule of the group to be supported by the social pressure it exerts” (94). This can be as simple as just writing up an explicit list of rules and posting them publicly, provided that this list be taken “as *authoritative*; i.e., as the *proper* way of dispelling doubts as to the existence of a rule,” thus providing a measure of *unity* between the primary rules, making them part of a coherent system (95). Of course, a modern legal system’s rules of recognition are more complex and tend to be of the form that all primary rules must be “enacted by a specific body,” be long-standing customs, be

properly related to judicial decisions, etc (*ibid*). With this concept, we can rephrase the common theorist's argument like so: the *rules of recognition* of the American state specify that the President and Congress are the heads of state, and they tie these politicians together with the army and police such that it is legitimate to attribute the police/army's use of force to the entire organization.<sup>16</sup>

However, as stated, this argument is imprecise. To make it precise, I need to introduce Hart's conception of the *external* and *internal* points of view vis-à-vis law. To appreciate this, consider first Hart's objections to what he calls the "predictive interpretation of law," or the theory that something is a law if it is likely that an individual will be punished if they break it; Hart's objection is: "where rules exist, deviations from them are not merely grounds for a prediction that hostile reactions will follow or that a court will apply sanctions to those who break them, but are also a reason or justification for such reaction and for applying the sanctions" (84). This idea of *reason* or *justification* forms what Hart calls the "internal" point of view. As Hart says earlier, for something to not merely be a habit but a *social rule*, "some at least must look upon the behaviour in question as a general standard to be followed by the group as a whole" (56). In other words, it is not merely that we can *observe* the fact that people follow a certain standard and punish those who disobey. Those people must also conceive of that standard

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16. The details of exactly how this works can get complicated, and it differs depending on which governmental system we are looking at. (I thank Carol Gould for bringing this to my attention.) For instance, in the US the President, as Commander in Chief, is designated by the law as the ultimate "decision-maker" regarding how to use force, though theoretically Congress is invested with the ability to declare war (though they have not made much use of this power in recent decades). Nevertheless, the President must still respect the legal and Constitutional limits of the office, which are ultimately decided (theoretically) by the Supreme Court. Parliamentary systems, of course, work somewhat differently in this regard. Still, these complications are not too relevant for my purposes at hand, so I will assume that the common theorist is able to overcome them and can coherently argue that the rule of law binds together civilian politicians and the police/army into one single organization.

as imposing some sort of normative obligation on the group as a whole. For example, chess players do not merely have a *habit* of moving the queen in a certain way:

“they have a reflective critical attitude to this pattern of behaviour: they regard it as a standard for all who play the game. Each not only moves the Queen in a certain way himself but ‘has views’ about the propriety of all moving the Queen in that way. These views are manifested in the criticism of others and demands for conformity made upon others when deviation is actual or threatened, and in the acknowledgement of the legitimacy of such criticism and demands when received from others. For the expression of such criticism, demands, and acknowledgements a wide range of ‘normative’ language is used. ‘I (You) ought not to have moved the Queen like that’, ‘I (You) must do that’, ‘That is right’, ‘That is wrong’.” (57)

The point is, to chess players, how to move a queen is not merely a habit they happen to follow, and they do not do it merely to avoid punishment. Rather, they conceive of the proper way to move the queen as a rule or standard that imposes *normative obligations* on chess players, such that when people break the rule, they are doing something *wrong*. To be clear, these are not feelings or emotions: “What is necessary is that there should be a critical reflective attitude to certain patterns of behaviour as a common standard, and that this should display itself in criticism (including self-criticism), demands for conformity, and in acknowledgements that such criticism and demands are justified” (*ibid*). While I do not fully understand what Hart means by “critical reflective attitude,” the basic idea that the internal point of view involves seeing the rules as imposing normative obligations on the community is enough for my purposes.

How does this apply to the law? The predictive theory of law, summarized earlier, is only true from the point of view of an *external observer*. “Such an observer is content merely to record the regularities of observable behaviour in which conformity with the rules partly consists and those further regularities, in the form of the hostile reaction, reproofs, or punishments, with which deviations from the rules are met” (89). This is the external point of view: the rules

themselves are not important and are perhaps even nonexistent; all that matters is the fact that people happen to *in their behavior* conform to those rules and punish those who do not. While the external point of view may be able to figure out that people will receive punishment if they do X or Y, it will miss

“the way in which the rules function as rules in the lives of those who normally are the majority of society. These are the officials, lawyers, or private persons who use them, in one situation after another, as guides to the conduct of social life, as the basis for claims, demands, admissions, criticism, or punishment, viz., in all the familiar transactions of life according to rules. For them the violation of a rule is not merely a basis for the prediction that a hostile reaction will follow but a *reason* for hostility.” (90)

This is the internal point of view, from which the laws are, at least in a sense, very much real, existing things: they are the source of certain obligations, they give *reasons* to follow them and to punish those who do not. And these reasons are not merely self-preservation (“I will follow the rules so I do not get punished”) but *normative*: “I will follow the rules because (in some sense) I *should*.”

With this material in place, we can return to the common theorist’s argument that the law provides a glue between civilian politicians and the people who actually implement violent force. What this means depends on whether one takes the external or internal point of view. I will start with the former. From the external point of view, we can see that the police and army have a habit of following the politicians’ orders, that those who disobey tend to receive punishment, etc.<sup>17</sup> The argument then goes that, due to this habit of obedience, it is fair to say that those who give the orders are truly the ones who control the means of violence. However, this final move does not in fact make sense from the external point of view. As I argued earlier, if violence is the

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17. Obviously, these are generalities; sometimes individual police or army members may disobey the law without punishment, but these exceptions do not invalidate the point that *most of the time*, they obey orders. Very few if any social norms are followed 100% of the time.

basis of state power, then those who actually control the means of violence—the army and police—are the true heads of state. There is an interesting anthropological and/or psychological fact that these people happen to follow the orders of others, but regardless of their motivations, the fact remains that it is *they*, not the politicians, who actually control the instruments of violence, which means, per the common theory, that they are the ones who hold political power. In other words, from the external point of view, the rule of law argument devolves into argument (a) above, which I already rebutted.

What about the internal point of view, then? Here, we can see that members of the police and army—at least most of them, most of the time—do not merely happen to obey the orders of the civilian government; they believe they have an *obligation* to do so. The reason for this is the rule of recognition I referred to earlier. According to the rule of recognition (i.e. the Constitution and perhaps other duly enacted laws), it is the President and Congress, *not* the army, who determines what the primary rules are, and this rule is accepted by the army with the “critical reflective attitude” Hart refers to. Thus, the common theorist could argue, because the rule of recognition designates the President and Congress the heads of state, it is appropriate to consider them as the ones who ultimately control the instruments of violence, even if the police and army are the ones who actually carry it out.

However, this view has the same problem as the idea that “legitimate force” means “force the population believes to be legitimate,” which I criticized at the end of the previous section. If the reason the police and army obey the President and Congress is due to the rule of recognition, then the entity *truly* in charge is not actually them, but the *rule of recognition itself*. After all, if they only obey the President because the rule of recognition tells them to, it is really the rule of

recognition they ultimately obey, so the President's power derives entirely from the rule's power. I do not mean for this to be an original point; as previously noted, almost all modern Western political theorists believe that the law ought to be in charge, not individual persons. The point I want to emphasize is that the rule of recognition, and the law in general, *cannot wield force*—they are abstract principles, after all. So in whatever sense the law has power, it cannot be due to its control of violence, legitimate or illegitimate. But the common theory asserts that political power *just is* the monopoly on (legitimate) violence. Therefore, from the internal view where the law is sovereign, the common theory cannot be true.

Again, I will approach the same point from a different direction. What precisely does it mean to say that someone, or something, has a monopoly on the (legitimate) use of force? It apparently does not simply mean that one actually *uses* such force, as that is the police and army. As previously discussed, it cannot simply mean that one *orders* those who use force. According to the argument under discussion, it means that someone is designated as the proper authority by the rule of recognition which is accepted by (at least) the police and army. But what accounts for the power this rule of recognition holds? (Recall that power merely is the ability to get people to follow one's orders, so if people follow the rule of recognition, it has power.) It cannot be force, as the rule of recognition is an abstract entity and thus is literally incapable of using force. It must be something else, something outside the domain of the common theory. One could object that the rule of recognition *does* control force, in that it designates as proper violence-users the police and army. But the real question is on what basis the rule of recognition holds power over *the police and army*, and this clearly cannot be through violent force.

I will explain why. We are assuming here that the police and army do not merely choose, for their own private reasons, to obey the law (that would be looking at the situation from the external point of view); rather, we are assuming the police and army in some sense *must* obey the law. It is this obligation which the common theorist asserts is sufficient to credit the heads of state, not the police and army themselves, with true political power. However, what the police and army are really obeying here is not the President or Congress *per se*, but rather *the law itself*. As such, it is the law, not the President, that truly holds ultimate political power under this theory. To see this more clearly, ask: what would happen if the police or army refused to follow orders? Presumably, the President would expel them and conscript a new army and police force. But that just raises the same question: why should the *new army* follow orders? Whatever the correct answer is—I will give my own answer in Chapter 4—it is clear that violent force is not what compels the obedience of the police and army as a whole. The conclusion of argument (c), then, is that the police/army are obeying *the law* and not the President, and since the law is unable to wield force itself, force cannot be the basis of political power. Therefore, the final attempt the common theorist can make to save the view that the President and Congress are the heads of state fails.

There is one final move the common theorist can make: bite the bullet and embrace the cynical view that the police and army are indeed the *real* heads of state, but for pragmatic reasons we act as if the politicians are in charge. This is at the very least highly unintuitive, if not actively ridiculous; one consequence would be that all states are in truth military dictatorships. But just because a theory is unintuitive does not necessarily make it incorrect. What *does* make it

incorrect is that it does not actually solve the original problem, which is that the people supposed by the theory to be in charge do not in fact control the means of violence.

I will focus on the army here as an example (though note all my comments will apply equally well to the police). Assuming the army is the “real” state, then who in the army are the heads of state? I will take on the external point of view here, since again, from the internal point of view power cannot be mere violent force. From the external point of view, the generals cannot hold political power either, as the generals (like the politicians) are not the ones who carry out state violence; the vast majority of (international) violence is committed by privates and other low-ranking soldiers. Perhaps this means that the privates, as a whole, are the heads of state. But the privates do not comprise a coherent group. They are (from the external point of view) a loose collection of very different individuals who lack any sort of institutional way to come to a joint, collective decision.<sup>18</sup> It makes no sense to claim that the privates as a whole are the heads of state when the privates *as a whole* never make a decision, write a law, or give an order.

Richard McAdams makes a similar point:

“Why should one fear sanctions when the court announces a judgment of damages or a sentence of imprisonment? To ask why the law has the power of sanctions is to ask why enforcement agents who impose sanctions obey officials who pronounce the law. Here, there is a potential for infinite regress. One can say that the sheriff fears that, if he refuses to carry out a court order to seize property, then the court will hold him in contempt. One could then say that the sheriff fears being held in contempt because, if he is, the bailiff will seize him. But why will the bailiff do that? Who does he fear? Obviously, the bailiff does not comply because the individual who issues the legal pronouncement—the judge—will personally, physically enforce it.” (McAdams 2015, 59)<sup>19</sup>

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18. From the internal point of view, we can say that the privates *qua* privates act not as individuals but as members of a role designated by the rules they accept. Again though, the common theory breaks down as soon as we enter the internal point of view, so this cannot save the common theory.

19. McAdams’s solution to this problem is very similar to my own; see Chapter 4.

What is going on here? Any theory of the state must account for the fact that the state has power: when it passes laws, most people obey them. The common theory asserts that the basis of state power is (the threat of) violence. But power does not merely exist between the state and the citizenry; there are also power relationships *within* the state. State employees obey their superiors, those superiors obey further superiors, and theoretically everyone ultimately obeys the head(s) of state. If the state's power depends on violence, then these power relationships must also ultimately rely on violence. But they do not; in point of fact, it is the people at the *bottom* of the hierarchy who actually commit the vast majority of state violence.<sup>20</sup> This is not a quirk of history, but a necessary feature of human organizations. It would be impossible for the army as a whole to comprise the "head of state," for armies (especially modern armies) are gigantic, and it would be impossible for the large numbers of people who personally commit violence to communicate with all the rest and consistently form joint decisions. The only possible conclusion is that violence is *not* the source of state power, which invalidates the common theory.

One could object that I have unjustifiably conflated the power relation between the state and the populace and the power relations within a state. Perhaps the former is based on violence, but the latter is based on something else (respect, tradition, habit, etc). At the very least, though, a theory that explains both types of power relations is superior to a theory that only explains one type, and the theory I give in Chapter 4 will indeed explain both. Moreover, while drawing a sharp distinction between the state's external and internal power relations is possible in theory, it cannot plausibly be upheld in practice. There are a great many people in the police and army in a modern state. Can it really be the case that the reason all of them obey their politicians and/or the

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20. It is true that if privates and other low-ranking violence-wielders disobey orders, they will end up in jail. But that is only because *other privates* will help put them there. It does not explain why the privates *as a whole* obey orders.

law is *completely* different from the reason their fellow citizens do the same? Once someone leaves the army, do they suddenly stop obeying their superiors out of respect or habit and start doing so out of fear of violence? This seems absurd. It is much more plausible to say that both soldiers and citizens obey the heads of state for roughly the same reasons and inquire as to what *those* are. This leads into the second major problem with the common theory, that it misunderstands why people obey the state, which I will discuss in the following section.

First, though, I will summarize the argument I gave in this section. The common theory asserts that the person or group who possesses the ability to inflict (legitimate) violence on those who disobey it holds political power in a given territory. However, because the ones who actually inflict violence are not the politicians, or even the military officers (chiefs of police), but ordinary privates (police officers), it is unclear who precisely holds ultimate political power according to the common theory. This is a fatal weakness that the common theory cannot overcome. As Hannah Arendt puts it in *On Violence*: “Where commands are no longer obeyed, the means of violence are of no use; and the question of this obedience is not decided by the command-obedience relation but by opinion, and, of course, by the number of those who share it” (Arendt 1970, 49). In Chapter 4, I will examine in more detail what precisely Arendt may mean by ‘opinion,’ and how such a thing can form the foundation of state power.<sup>21</sup> In the next section, I will lay out my final objection to the common theory.

### **Section 5: Citizens and the State**

While the government and citizenry are all members of the same society, the common theory constructs a hierarchy between them: government officials at the top give orders,<sup>22</sup> while

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21. Although, as we will see, ‘opinion’ is not really the right word.

22. Obviously they also sometimes follow orders, and even the heads of state must (theoretically) obey the Constitution, but there is still a big difference between them and the ordinary citizens

the citizenry at the bottom either obeys them or suffers the (violent) consequences. While this is clearly true to an extent, I will show in Chapter 4 that the true dynamics are much more complicated. In the meantime, as I argued in the previous section, the common theory misunderstands the “top” portion of its hierarchy because it ignores the power relationships *within* the state. In this section, I will argue that it also misunderstands the “bottom” of its hierarchy; namely, it fails to grasp the reasons why the citizens obey the state’s orders. According to the common theory, the state’s power lies in its monopoly on violence. Why does this monopoly give the state power? Because, while there may be many reasons why people obey the law (genuine respect, propaganda, habit, etc), ultimately if they do not obey the law they will be punished, a punishment backed by (the threat of) physical force. As Michael Huemer argues, “the state will generally make a reasonable effort at punishing violators and will generally punish a fair number of them, typically with fines or imprisonment. These punishments are intended to harm lawbreakers, and they generally succeed in doing so” (Huemer 2013, 9). Most people want to avoid being violently harmed if at all possible, so if the state commands them to do something, they obey that order for fear of suffering the state’s violent retaliation. It is important to emphasize that the common theory’s focus on the monopoly of (legitimate) force does not make much sense unless this monopoly is *a* or *the* major reason most people obey the state, as otherwise it would seem arbitrary to select *this* element as the thing that constitutes state power. At first glance, this view that people obey the state for fear of punishment makes a lot of sense. It is clearly true that most people do not want to be fined, imprisoned, or executed, and the state *does* threaten to do some or all of those things if people break the laws it expounds. Nevertheless, this view is in fact mistaken, as I will now demonstrate.

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who have almost no political power.

To begin, I will describe an event at the beginning of the Civil Rights Movement. In 1951, a junior at the all-black R. R. Morton High School, Barbara Johns, led a student strike to protest the school's lack of resources. Historian Taylor Branch describes what happens next:

“Before the Negro adults had decided what to do, and before most of the local white people had noticed the controversy at all, Barbara Johns and her little band sent out appeals to NAACP lawyers . . . When the lawyers told a mass gathering of one thousand Negroes that any battle would be dangerous and that the strike was illegal, it was the students who shouted that there were too many of them to fit in the jails.” (Branch 1988, 20)

This strike led to an NAACP lawsuit which eventually became part of the *Brown v. Board of Education* decision (21), but what I want to focus on here is the argument the students made that they were too numerous to fit in the jails. Whether or not they were correct in their particular case, the general point is surely true: the prisons of the United States can only physically hold so many people. Thus, if a sufficiently large number of people were to break the law—probably even as few as 2% of the population<sup>23</sup>—the government would literally be unable to imprison them all. They could fine them, but then how would those fines be enforced? They could injure or kill the lawbreakers, but despite their advantage in training and weaponry, the police and even the army are massively outnumbered by the citizenry and would not be able to accomplish much if a large number of citizens decided to revolt against them (particularly if some of the police and army defect to the revolutionaries). To put it another way, breaking the law will likely not bring me any negative repercussions *as long as* a sufficiently large number of people break the law

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23. In the US, as of 2016, around 860 of every 100,000 people are currently incarcerated (Gramlich 2018), or 0.86% of the population. In order to imprison 2% of the population, then, we would have to more than double our current number of prisoners. Even the United States, home of the largest prison population in the world, would likely find that almost impossible to accomplish.

with me. Therefore, the real reason people follow the law (assuming they do not agree with it) is not mainly fear of punishment, but rather that they think *everyone else* will follow the law.

I will explain the previous sentence in more detail. Consider the example of laws that are technically on the books but are nonetheless widely violated and rarely enforced, such as jaywalking in New York City. One might assume that jaywalking is common in New York because the state does not punish jaywalkers. But if the state *were* to start arresting and charging most or even a significant fraction of jaywalkers, it would take so many resources and so much jail space—not to mention render so many people unable to work—that the city would shut down. In other words, it is far more likely that the state does not punish jaywalkers precisely *because* jaywalking is common; then, because jaywalking is not punished, more people jaywalk, in a process of circular causation.

On a general level, all states have an interest in preserving the steady functioning of society, as otherwise they will lose power (not to mention face revolts). Rendering a significant portion of society unable to work by injuring, imprisoning, or killing them would thus redound to the disadvantage of the state. Additionally, states are physically unable to imprison a significant portion of their populace. For these reasons, if a large number of people start disobeying a particular law, the state has two choices: (a) selectively enforce it by punishing an extremely small number of lawbreakers; (b) never, or almost never, enforce the law in question. There are some reasons to do the former. First, they can punish a small number as an example to the larger populace, in the hope that doing so will convince them to stop breaking the law (I will discuss this in more detail later). Second, if they already want to punish a few of the lawbreakers for unrelated reasons, they can use their violation of this law as an excuse. However, if a large

portion of the populace is *insistent* on breaking the law, the state will effectively have no choice but to let them. In other words, as I stated before, I can break the law quite happily without fearing repercussion as long as enough *other people* break the law with me. The source of the state's power, then, is not their monopoly on violence; rather, it is the fact that citizens *expect* (the vast majority of) other citizens to obey the law. If this expectation changes, then people will be able to break the law, and the state's violence will not be able to stop them.

This is not to say that violence is totally separate from state power. As Arendt says, “nothing . . . is more common than the combination of violence and power, nothing less frequent than to find them in their pure and therefore extreme form” (Arendt 1970, 46-47). States, at least as they are currently composed, do need to use violence. But violence is not a sign of the state's power; in actuality the opposite is true, violence is a sign of the state's *weakness*. Arendt explains:

“[I]n domestic affairs, violence functions as the last resort of power against criminals or rebels—that is, against single individuals who, as it were, refuse to be overpowered by the consensus of the majority.” (51)

“Power and violence are opposites; where the one rules absolutely, the other is absent. Violence appears where power is in jeopardy, but left to its own course it ends in power's disappearance. This implies that it is not correct to think of the opposite of violence as nonviolence; to speak of nonviolent power is actually redundant. Violence can destroy power; it is utterly incapable of creating it.” (56)

As briefly mentioned in the previous section, the basis of state power is not violence but something more like opinion (much more on this in Chapter 4). It is best for the state if the citizens obey the law without needing to be forced. Indeed, as I have discussed, if a large number refuse to obey, the state will collapse. The main reason to use violence against lawbreakers, who by necessity must be small in number (or else the state will collapse), is to use them as an

example in order to convince the majority of non-lawbreakers to *continue* obeying the law: “If I break the law, I’ll be next.” But it would be inaccurate to say that violence is establishing the state’s power. The effectiveness of state violence depends on it *already* having power; if the state lacked power and the majority of citizens disobeyed it, violence would be useless. Violence becomes necessary when the state’s power *breaks down* for a particular individual or group, and it succeeds only inasmuch as it influences the opinions of the majority, the true source of state power. Were the state to face massive and widespread resistance, a violent response could only succeed if the state (a) could keep most of the army on its side and (b) could persuade the rebels to back down out of fear for their own lives. If the army were to join the rebellion and/or the rebels were willing to press on regardless, the state’s power would collapse.<sup>24</sup> In normal times, the power of the state consists in the fact that it *does not need* to practice violence on the majority of the population, but can instead rely on the average citizen’s confidence that her fellow citizens will obey the law and so she should as well.

One may object that surely a dictatorial or totalitarian government, at least, depends entirely on violence to maintain itself in power. However, the seeming plausibility of this claim is only skin-deep; peer deeper and we will see that even dictators ultimately rely on (something like) opinion and not violence. As Arendt argues, “the totalitarian ruler, whose chief instrument of rule is torture, needs a power basis—the secret police and its net of informers” (50). In other words, at the very least they need the loyalty of the secret police, a loyalty that cannot itself be based on violence. I would add that even the success of the secret police and its informers

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24. It perhaps bears noting here that a rebellion can only succeed inasmuch as it stays organized, i.e., inasmuch as it gains and retains power of its own. The leaders of a rebellion face the exact same difficulties in their quest for power that I have outlined for the state. If they do not solve them, they fail; if they do solve them, they end up becoming states themselves (unless they get conquered, of course).

depends on the passive support of the populace. To see why, consider an interesting example Arendt discusses of a small minority of students disrupting a university class via shouting and the like. She points out that they can only succeed because

“the majority clearly refuses to use its power and overpower the disrupters; the academic processes break down because no one is willing to raise more than a voting finger for the *status quo*. . . . The merely onlooking majority, amused by the spectacle of a shouting match between student and professor, is in fact already the latent ally of the minority.” (42)

The ability of a secret police to control its populace is, so to speak, the inverse of that case. The majority have the power to overcome the secret police, but they refuse to use their power due to their fear that if they resist they will be punished next. In this way, they are the latent ally of the *status quo*, i.e., the totalitarian government and its enforcers. This is why the “atomization” (55) that Arendt mentions later is a hallmark of totalitarian regimes. If they allowed the citizens to gather together, the citizens may end up realizing their power and successfully resist the government.

Of course, military dictatorships and fascist regimes *have* faced organized resistance that they ended up crushing, such as the White Rose Society in Nazi Germany. But these resistance movements fail precisely because they are unable to convince a significant enough portion of the population to join them. Or if they do—such as the peasant revolts that repeatedly wracked medieval European states—they are not able to sustain themselves, and the revolutionaries lose faith and end their revolt after enough violent state reprisals.<sup>25</sup> In other words, even totalitarian governments do not merely rely on the threat of force; more importantly, they rely on the *failure of the populace* to effectively organize against them, and they work assiduously to guarantee this

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25. It should be noted, though, that while a revolt is ongoing, it does not seem like the state holds power over the revolutionaries.

failure through atomization and propaganda. Violent force certainly helps, but it *only* helps inasmuch as it makes people afraid to organize together. If they were to do so—in other words, if they were to *expect* most everyone else to start breaking the law—even a totalitarian government would lose its grip on power.<sup>26</sup> The problem is that it is very unlikely for me to plausibly expect most other citizens to disobey a totalitarian government, especially if the state possesses a vast surveillance apparatus and wields terrifying force on those who disobey it. That is why dictatorships often stay in power. My point is not that totalitarian subjects can just revolt whenever they want, but that the *reason* they cannot revolt is because they have no rational reason to expect most other subjects to revolt with them.

It should be noted that my objections in this and the previous section reinforce each other. One common thread connecting *successful* revolutions is that successful rebels eventually get the army (or significant portions of the army) on their side. One may argue that this proves control of the means of violence is the core of power, but the reality is more complicated. By ignoring the power relations within a state, the common theory cannot hope to explain the circumstances in which the army *does* or *does not* obey the state's orders. Furthermore, it seems likely that significant portions of the army will only defect to revolutionaries if the revolutionaries already have massive numbers on their side—i.e., if they *already* gain enough power to potentially threaten the status quo. In other words, one reason fear of violence cannot be the main reason

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26. Arendt mentions offhandedly: “Only the development of robot soldiers, which, as previously mentioned, would eliminate the human factor completely and, conceivably, permit one man with a push button to destroy whomever he pleased, could change this fundamental ascendancy of power over violence” (50). However, she overestimates the game-changing nature of robots. Robots still need engineers to make and repair them and programmers to enable them to follow orders. Ordinary citizens could hack the robots or even make their own. Additionally, if the robots were conscious, they would present the same difficulties to state authorities that human soldiers do. Even robot soldiers, then, would not change the fundamental power/violence dynamics that Arendt and I discuss.

citizens obey the state is that the people who inflict violence *are citizens too*, and if they see a large number of their fellow citizens break the law, they may very well end up breaking the law themselves. On the other hand, my argument implies that the major reason the police and army obey their superiors in normal times is because they expect the *rest of* the police/army (and, most likely, the citizenry at large) to do so as well. Therefore, my argument at least has the potential to form a single theory that explains both the power structures that operate *between* the state and society and the ones that operate *within* the state itself, a potential I will fulfill in Chapter 4.

To summarize, I have leveled three objections against the common theory in this chapter: (a) it depends on an incoherent conception of “legitimate force”; (b) it cannot explain the power relations within a state; (c) it assumes people obey the state out of fear of punishment. In reality, (b) we need to explain why the people who actually *implement* violence obey the supposed “heads of state”; (c) ultimately people obey the state’s orders because they *expect* most other people to obey the state’s orders. All of these misconceptions derive from the same source: the assumption that the state’s power derives from its control over the means of violence. Because of this, the common theory must (a) invent an incoherent notion of “legitimate force” to explain away the existence of criminal gangs, (b) ignore the difference between the heads of state and the people who *actually* control the means of violence, and (c) assert that fear of violence is *a* or *the* chief reason citizens obey the law. To solve these problems, then, we must reject the notion that the state’s power rests on violence and find a different, more accurate theory. I will do this in Chapter 4. First, though, I will turn my attention in Chapter 2 to the other major player in my overall argument: the firm.

## Chapter 2: The Nature of Corporate Power

In this chapter, I will argue that a major theory of the origin and purpose of the firm by the economist R. H. Coase and a major theory of the state by John Locke are surprisingly similar. In both theories, centralized power arises in response to the deficiencies in a society governed by general laws alone, the law being the price mechanism in the case of Coase and the “law of nature” in the case of Locke. Indeed, the deficiencies are the same in both cases: if we do not invest individuals with power, the number of transactions or negotiations humans need to engage in proliferates, particularly due to (using economist Oliver Williamson’s terms) bounded rationality and opportunism. Thus, the purpose of both management and government is to greatly reduce the amount of these negotiations, improving overall efficiency. This implies that firms and states are far more similar to each other than they may appear, an implication I will demonstrate more fully in Chapter 4.

In Section 1 of this chapter, I will begin by summarizing Coase’s argument and then supplementing it with Oliver Williamson’s view, which gives a more detailed analysis of what precise advantages firms have over the price mechanism. I will conduct an additional analysis of *corporations* specifically in Section 2, drawing from the accounts of David P. Ellerman, David Ciepley, and Margaret M. Blair and Lynn A. Stout, the latter of whom explicitly say that their theory is similar to a Hobbesian social contract. This will lead to Section 3, where I will show how Locke’s social contract theory is similar to the views of Coase and Williamson, a surprising result because the firm and the state are usually thought to be very different from each other.

### Section 1: Coase and the Nature of the Firm

R. H. Coase begins his influential article, “The Nature of the Firm,” by observing that most economists theorize “the economic system as being co-ordinated by the price mechanism and society becomes not an organization but an organism” (Coase 1937, 387). However, he then points out: “In view of the fact that it is usually argued that co-ordination will be done by the price mechanism, why is such organisation [in a firm] necessary?” (388) In other words, the very existence of firms poses a “problem” to (neoclassical) economics. Theoretically, a free market economy is supposed to lack any central control, its transactions being regulated by the price mechanism. But in reality, all modern capitalist economies contain many firms *inside* of which the price mechanism does not apply; as Coase says, they are “islands of conscious power” inside an economy (supposedly) governed by the unconscious price mechanism. The basic problem that Coase addresses is: Given that the price mechanism is supposed to promote efficiency, why have firms at all? What can they do that the price mechanism cannot? I will explain this “problem” in more detail soon, as it is vital to understand Coase’s overall argument. My explanation will not be particularly groundbreaking, but setting up the problem clearly will aid me when I make comparisons to Locke in Section 3.

Before I begin discussing Coase, I will note two things. First, Coase (as well as Williamson, whom I will discuss later) seems to accept many assumptions of neoclassical economic theory, including an extreme individualism and valuing efficiency as the ultimate economic good. I do not share these assumptions myself; however, I do think that within the context of a capitalistic economy, where efficiency *really is* one of the major factors determining what the economy does, their theory is valid. Furthermore, if I can show that states and firms are

similar *even under* the individualistic assumptions of neoliberalism, then they are certainly also similar if those assumptions are false.<sup>1</sup> Second, Coase and Williamson focus solely on modern corporate firms, as will I.

The “problem” Coase is trying to solve goes roughly like this. The point of an economy is to create products and then deliver those products to people who want and/or need them.

However, for this to work, there must be some way for people to communicate and cooperate with each other. To see why, imagine the contrary, where every person just makes whatever they want whenever they want, without any consideration for what other people desire *or* produce. It would be impossible for the economy to function: there would be no way for me to know what other people want, so I would not know what to produce; there would be no way for me to know what other producers are doing, so we will almost certainly overproduce some things and underproduce others; and there would be no way to tell *who* needs or desires the things I end up producing, so I would not be able to adequately deliver them. We must establish some way for people to cooperate with each other, including in cases where the amount of people who need to cooperate number in the hundreds of millions (as it often does in the modern day).

One way to enable cooperation is to let some authority, such as the state, have the power to decide which products should get made and who should have them.<sup>2</sup> This would solve all the problems listed above: I would know what to produce since the state would tell me; we would be at less risk of over- and underproduction because (presumably) the state would make sure to

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1. I will go into more detail on this subject in Chapter 3, but as we will see, my argument does not depend on an acceptance *or* a rejection of individualism.

2. Obviously there would have to be some process for the state to come to a decision on these matters. But now the issue is not how to coordinate millions of people who have never met, but the much simpler issue of how a relatively small number of people can decide these questions. (I thank Carol Gould for bringing this issue to my attention.)

order people to make a variety of products; finally, the state would tell distributors which products to deliver to whom. Another way of looking at this is that the state's orders *allow* people to coordinate with each other, in that each individual manufacturer cooperates with the other manufacturers *by means of* obeying the state. A free market capitalist economy uses a different method to allow people to coordinate, which economists call the *price mechanism*.

Books can and have been written about the price mechanism, but only the basics need concern us here. The idea behind the price mechanism is that, as a producer, I decide which items to produce (and how many) not by whim or guesswork but by doing what I believe would make me the most money, i.e., by making the items I could sell for the highest *price* (relative to the price of producing them). The key is how this price is determined: it increases alongside an increase in demand and *decreases* when there is more supply. Thus, when other people are making a certain product, I am incentivized to stop making it; similarly, when a lot of people *want* a certain product, I am incentivized to make more of it. What I want to emphasize is that the price mechanism allows people who have never met to *non-consciously cooperate*. As Friedrich Hayek says, “prices can act to coordinate the separate actions of different people” (Hayek 1945, 526). It allows consumers to “communicate” their desires to producers via their purchasing decisions, and simultaneously gives producers the incentive to respond to that communication by creating the appropriate product. That this works to any degree at all is, from a certain point of view, remarkable: “The marvel,” Hayek says, “is that in a case that like that of a scarcity of one raw material, without an order being issued, without more than perhaps a handful of people knowing the cause, tens of thousands of people . . . are made to use the

material or its products more sparingly” (527). Thus, so the theory goes, an economy can function without any kind of conscious central control.

The problem, as Coase notes, is that this does not apply *at all* to decisions made *within* a firm. For example: “If a workman moves from department *Y* to department *X*, he does not go because of a change in relative prices, but because he is ordered to do so” (Coase 1937, 387). In other words, if (for example) a worker in a firm stops making a certain product and switches to a different one, it is almost never because they personally believe the new product will sell for a higher price and thus make more money for them. Rather, they do it because *their boss orders them to*. In general, then, workers hardly ever decide what to do based on the price mechanism; rather, they follow the orders of their managers. From this perspective, a hierarchical firm is more similar to the state-controlled economy I discussed earlier than to a free market economy. Thus, even in a capitalist economy, there is some conscious control of the economic process—while the price mechanism more or less operates *between firms*, or between firms and individuals, *within a firm* conscious human control predominates. The question, as Coase puts it, is why such conscious control exists *anywhere*. Assuming that the neoclassical economists are right that the price mechanism is more efficient than central planning,<sup>3</sup> why does the price mechanism not control *all* economic activity?

To put the issue into sharper focus, imagine a society where the price mechanism really *does* influence all economic activity: a free market economy in which everyone is self-employed.<sup>4</sup> A self-employed person decides what to produce and who to give her products to entirely on the basis of what will make her the most money, i.e., according to the price

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3. Again, whether or not this assumption is true is beyond the scope of this essay.

4. The plausibility of this hypothetical does not concern me—indeed, the point is to show just *why* this hypothetical economy would not work very well.

mechanism. Obviously, this world would not have any firms; there would be no managers or employees, only independent manufacturers.<sup>5</sup> In other words, in this world the labor market *does not exist*—people trade in goods and services, but they do not trade in labor. If Oliver Hart is right that “standard neoclassical theory treats the firm as a black box” and “no attention is paid to how it came into existence” or “the nature of its internal organization” (Hart 1991, 138), then standard neoclassical theory treats the economy as if only self-employed producers existed. But this is false—quite the contrary, firms far outnumber independents in modern industrialized economies—so presumably, firms must do something independent producers cannot. What is it?

Coase’s answer is that “there is a cost of using the price mechanism” (Coase 1937, 390). First, one has to actually find out what the relevant prices are (*ibid*), which is not a trivial matter, especially in a very large economy. Furthermore, when using the price mechanism, each and every transaction must be negotiated; on the other hand, in a firm, one only needs to negotiate an employment contract once (391). (Note what is going on here: a market in goods or services *becomes* a market in labor, as the latter requires far fewer transactions.) Finally, someone (call them A) may want to make a long-term contract with another (B) for some commodity or service, but to retain flexibility does not want to specify in advance how that commodity is to be made. In that case, the only option is to gain the right to tell B what to do *later*, when A knows how precisely they want it provided—i.e., to become an employer (391-392).

Again, a thought experiment, this time with aid from Sherwin Rosen, will help elucidate Coase’s argument. Imagine how a firm would operate with no central authority:

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5. Obviously they would not be *totally* independent—they would still need to rely on others to provide raw materials, have family and friends, etc. The point is simply that they would not be in firms.

“A worker would own (or rent) a place in the assembly line, having purchased the rights from its previous owner. Its economic value would reside in the residual rights of contract, the profit gotten from purchasing intermediate products from adjacent upstream sellers and reselling the value-added units to adjacent downstream buyers. . . . An exceedingly complicated contractual system, usually requiring side-payments among participants in the organization, is necessary to achieve efficiency in these circumstances. The number of prices necessary to manage it can be very large indeed.” (Rosen 1991, 78-79)

As a concrete (imaginary) example, take a car assembly line where decisions are made, not by a manager, but by each worker forming a contract with each other worker (i.e., decisions are made via by the price mechanism). So someone who makes rubber for the wheels would have to sell that rubber, individually or in batch, to the wheel-maker, who in turn would have to sell those wheels to whoever is constructing the whole chassis, etc., each person participating only because they sell their product for more money than they bought the component materials for. While it is certainly *possible* to organize production in this way, Rosen is right that the number of necessary contracts would be exceedingly large, and so it would take a great deal of time and energy that could otherwise be spent on making cars. Thus a firm, where employees just make the things their employer tells them to without having to constantly contract with each other, out-produces such a collection of independent manufacturers and sells its cars at a far cheaper price. This is the advantage central power has over the price mechanism.

Oliver Williamson advances upon Coase’s argument by introducing two important features of human psychology: what he calls “bounded rationality” and “opportunism.” I will cover each in turn. Williamson borrows a quote from H. A. Simon that bounded rationality “refers to human behavior that is ‘*intendedly* rational, but only *limitedly* so’” (Williamson 1975, 21). To put it simply, humans can only have knowledge of a limited amount of information, and human communication is necessarily imperfect (21-22). This concept is important because, were

rationality unbounded, “[t]he employer would agree to pay a particular wage now in return for which the employee agrees to deliver stipulated future services of a contingent kind” (65). In other words, imagine it were possible to design a contract that specifies all possible future states of the world in advance. If so, then producers in a leaderless firm would not need to constantly contract with each other; they could just make one contract in the beginning and follow it for decades afterward. However, this is not the case. “Not only are changing market circumstances . . . . impossibly complex to enumerate,” Williamson says, “but the appropriate adaptations thereto cannot be established with any degree of confidence *ex ante*” (65). Thus, it is the fact of bounded rationality, combined with the complexity of a modern economy, that makes employer power necessary in the way Coase argues.

The second important psychological/sociological fact Williamson points to is “opportunism.” This, to put it simply, is the fact that humans sometimes lie and cheat in order to get what they want; “[p]romises to behave responsibly that are unsupported by credible commitments will not, therefore, be reliably discharged” (Williamson 1991, 92). If I cannot count on others fulfilling their promises, it becomes a lot more difficult for the economy to function (why should I do my part if others will not do theirs?). This is particularly a problem when the number of participants in a market is small. If the market is large, then a cheater who is discovered will (hopefully) receive less business in the future. However, if the market is small, lack of competition makes it much easier for cheaters to prosper (Williamson 1975, 27). Therefore, another advantage of a firm is that “one individual, the supervisor, is expressly assigned the tasks of auditing and experience-rating” (54). The price mechanism by itself is not very good at catching liars and cheaters, and the state cannot be everywhere at once, so the

employer or her agents step in to ensure that transactions are above-board. This is effective because, by giving one individual the responsibility to determine who is cheating, *as well as* the ability to sanction the cheater (through demotion or dismissal), we can directly punish and discourage cheating in a way that the mindless price mechanism cannot.

To summarize, Coase and Williamson together have provided two main reasons why coordinating economic behavior via employer power is *sometimes* more efficient than doing so via the price mechanism. First, due to bounded rationality, the price mechanism requires constant contracting with other individuals, which takes a lot of time and energy; the firm cuts down on these significantly, thus freeing up time to make commodities. Second, due to opportunism, the market is vulnerable to liars and cheats, while the firm allows there to be a person whose job is specifically to ferret out such people and levy appropriate punishment.

### **Section 2: A Corporation Is Not an Asset**

I would like to extend the Coase/Williamson view by arguing that it means that the *purpose* and *function* of firms is to coordinate the economic activities of its employees. One may object to this in the following way. While a firm may be more efficient than the price mechanism (sometimes), that is not its purpose. The main *purpose* of a firm is to make money for its owners. For that purpose, the owners hire employees (or, in a public corporation, appoint/elect the Board that then hires managers who hire employees), obtain investments, and the like. While it is true that the employees have to cooperate to produce commodities, the reason they are cooperating is *to make money for* the firm's owner.

There are two problems with this objection. To explain the first, I need to establish some distinctions. We can distinguish between the following three "functions" or "purposes" of a firm:

(a) the purpose of a firm to its *owner(s)*; (b) the purpose of an *individual* firm to the wider economy; (c) the societal purpose of the *firm structure*, i.e., the function of the hierarchical employer/employee relationship to society as a whole.<sup>6</sup> (a) The purpose of a firm for its owner, and its employees for that matter, is profit; making money is, after all, the main psychological motivation behind work in a capitalist economy.<sup>7</sup> (b) The function of any *individual* firm is to make a particular product (or deliver a particular service), as the demand for that product/service is what enables the firm to make its profit. Section 1 was not talking about either of these purposes, though. Coase and Williamson are theorizing about (c): the reason a society should have firms *at all*. Coase and Williamson argue that the reason firms (i.e., hierarchical employer/employee relations) exist is because they are often more efficient than the price mechanism, due to cutting down on transaction costs and opportunism. As I will argue in more detail in Chapter 4, the societal purpose of the corporate *structure* is what is relevant to the question of how we should decide who gets to manage firms.

The second problem is more complicated. The objection assumes that a firm is *owned*, i.e., is a piece of property. In reality, while this may be true for a minority of firms, it is not true for the dominant model: corporate firms, or *corporations*.<sup>8</sup> To show this, I will make use of three different views: David P. Ellerman's argument that a 'corporation' is really a set of contracts, David Ciepley's view that corporations are partially public, and Margaret M. Blair and Lynn A. Stout's "team production theory." Despite their differences, all of these theorists contribute to the

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6. I thank Carol Gould for helping me understand this distinction.

7. There may of course be other motivations, such as enjoyment, personal fulfillment, etc.

8. See page 81, footnote 11 for more on how I use 'firm' and 'corporation' in this section. As we will see, Ciepley's and Blair and Stout's arguments are limited to corporations, not firms in general. Since the previous section contained an argument for why firms *in general* work by facilitating cooperation, my argument in this section can be considered supplemental to the one in Section 1, albeit a supplement that only applies to corporate firms.

idea that corporations are not owned by anyone in particular, but are rather a means by which people can successfully work together—though to be clear, working together does not mean they are all *equal* participants, quite the contrary.

I begin with Ellerman. Ellerman argues against what he calls the “fundamental myth” that a corporation is a “piece of property” that the owners can use however they wish (Ellerman 1992, 11). His argument against this “myth” goes as follows. Imagine a traditional capitalist corporation, Widgets Unlimited. Say that at some point, its workers (managers included) decide to get together, lease the capital from Widgets Unlimited, and purchase raw materials and make widgets themselves. The widget producer is no longer the “corporation,” Widgets Unlimited, but rather has become the workers as a whole, even though no corporate shares have been traded. Ellerman uses this example to argue that a “firm,” as in the entity that controls production and has the rights to the end products, is *not* determined by who owns what; rather, it is determined by “the pattern of those hiring contracts” (12). In other words, the reason capitalists receive the commodities their companies produce is not because they own capital, but because they *hire labor*. Were labor to “hire” capital—i.e., by renting the production facilities—*they* would be the ones who control the production process and receive the outputs. In other words, the person who owns the means of production *need not be* the person who bears “the cost of the inputs” and owns “the producing outputs” (21). To summarize, Ellerman is arguing that which determines who controls the production process, and thus reaps the reward, is not *strictly speaking* ownership of capital, but rather *who hires whom*.

However, Ellerman’s account has a major weakness. While it does seem true that workers would control the production process if they hired capital (instead of the other way around), most

workers in a capitalist economy do not have sufficient money in order to rent the requisite amount of capital.<sup>9</sup> They could try to get a loan, but without wealth or collateral, it would be very unlikely for a bank to lend them enough money. And while there are a few worker cooperatives in modern capitalist economies, they are relatively rare. Therefore, while Ellerman's hypothetical may be theoretically possible, in practical terms it is extremely difficult or impossible for workers to control the production process as they lack the funds necessary to rent capital.

I agree that Ellerman does not provide enough backing for his claims. Moreover, he appears to suggest that the only reason capital hires labor is that the law recognizes employment contracts as valid (165), which is extremely simplistic at best; after all, it is also legal for workers to form a cooperative. Nevertheless, I do think his argument that I summarized above can be expanded to be made plausible. While it is certainly true that *individual* workers almost never have enough money to rent the capital necessary for a business, or the ability to secure funds for that purpose, it is much less clear that a large *group* of workers cannot do the same. If relatively highly-paid "white collar" workers, for instance, pooled their money together, they would likely have enough to at least persuade a bank to give them a loan. Despite that fact, most white collar workers are still hired by their managers and are thus subject to their control while on the job. In other words, because even well-paid workers rarely "hire" or rent capital, the *fundamental* reason why capital hires labor (instead of labor "hiring" or renting capital) does not appear to be labor's lack of money.

Additionally, while it is true that banks would likely be wary of lending money to a group of workers so they can rent some capital, we should analyze more deeply why this might be. Is it because the banks worry that they might not be repaid? But if the workers are reasonably

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9. I thank Carol Gould for pointing this out.

successful, then since they are “hiring” capital, *they* would retain all the surplus profit once the capital rents are paid, and would be able to pay back the loan with part of that profit. To be sure, lending out this money would be a risk on the bank’s part, since the business venture might not be successful—but that is also true today, yet banks still often lend money to new businesses. So it is not obvious that the banks’ wariness in this regard can best be explained by workers not possessing enough starting funds. My point is not that wealth is *meaningless*; owning wealth definitely gives one a big advantage. What I am saying is that, while capital is indeed almost always the hiring party in a capitalist economy, it *need not be*. It would be possible to structure our economy such that labor hires/rents capital instead. Workers’ relative lack of wealth is one reason this does not happen, but it is not the only reason.<sup>10</sup> Again, I do not agree with Ellerman that the reason is just that the law recognizes employment contracts, but my own theory on this will have to wait until Chapter 4. For now, it suffices merely to say that control of the production process, and ownership of its results, is not based solely on property ownership.

Moving on from Ellerman, Ciepley provides some additional material for this idea when he outlines how *corporations* differ from business *partnerships*. In a partnership, everyone pools their money to fund the business, but crucially they all retain ownership of their individual contribution, and can withdraw it at any time (Ciepley 2013, 143). By contrast, in a *corporation*, any investments someone makes are “locked in”: while they can sell their shares in the corporation, they cannot withdraw any assets directly, because those assets are not their property anymore, they are the *corporation’s* property (*ibid*). This both allows a corporation to borrow

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10. As Carol Gould points out, a few other plausible reasons are that hierarchical corporations would likely object if banks started regularly lending out money to cooperatives and that some or most of the workers would have to devote a lot of time to the cooperative project without being able to support themselves in the meantime. I believe these concerns dovetail with my own explanation, but that will have to wait for Chapter 4.

money more easily (as lenders need not fear a partner pulling their investment) and specialize its capital without needing to keep it in liquid form to enable investors to withdraw it at any time (143-144). Furthermore, if one member of the partnership goes into significant debt, their creditors can receive the *partnership's* assets as payment; by contrast, a corporation's assets are "shielded" and an investor's creditors are unable to seize them (144). The opposite is also true: *limited liability* shields shareholders from paying off a corporation's debts (*ibid*). Together, these differences make it easier for corporations to attract investors, especially small investors, and enable corporate shares to be bought and sold, which gives investors some measure of liquidity (*ibid*).

There are differences between Ellerman's and Ciepley's theories—their definitions of 'corporation' and 'firm' differ, for instance<sup>11</sup>—but we can combine their similarities in the following way. Corporations are not, strictly speaking, owned by anyone. Rather, corporations operate as freestanding entities, able to own, buy, and sell property, take on loans, etc, *by themselves*. The bureaucratic structure of the corporation itself, who gives and receives orders, who owns the products, etc, is thus determined not by *ownership* but by the *pattern of contracts*. In a capitalist economy, capital almost always hires labor, not the other way around, and *that* is the source of their power. (As for *why* capital almost always hires labor instead of the reverse, again, that will have to wait until Chapter 4.) In sum, then, corporations are not pieces of

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11. Ellerman appears to identify a corporation with the entity that owns a particular set of capital assets, while he defines a firm as "the party undertaking production" (Ellerman 1992, 12). On the other hand, Ciepley identifies a 'corporation' with the particular organizational *structure* I just discussed, whereas he seems to view a 'firm' as any organization that operates for profit, regardless of its structure (Ciepley 2013, 141). I have mentioned partnerships in the main text, which are presumably non-corporate firms for Ciepley; in a later article (Ciepley 2017) he also argues that *states*, or at least the American state, are corporations (despite not being firms). In this section, I use 'firm' and 'corporation' in the same sense that Ciepley does, and use 'capitalist(s)' or 'investor(s)' to refer to the entity that owns capital.

property; they are a set of contractual obligations (including those guaranteed by the government, such as limited liability) that are granted the right to *themselves* hold property, as independent entities. They are controlled not by their “owners” (again, they have no owners) but by whoever is the *hiring party* in the contracts.

What precisely a corporation *is* remains vague, however. To put more meat on the bones, I will make use of Blair and Stout’s article, “A Team Production Theory of Corporate Law” (1999). Blair and Stout argue against a theory of the corporation they call the “grand-design principal agent” theory (258). This theory asserts that a corporation is a hierarchy, at the top of which sits the owner/principal (understood to be the shareholders for a public corporation) who delegate their authority to other people a step below them, the “agents”; these agents must manage the corporation for the benefit of the principal, and the principal receives whatever profits the company makes after it pays its contractual dues to the agents (262). However, Blair and Stout say, this model over-emphasizes the importance of vertical, hierarchical relationships and neglects *horizontal* relationships between the agents, which are at least as important because much productive activity depends on joint efforts that one person cannot accomplish by themselves (264). This leads us to Blair and Stout’s titular team production theory.

The essence of Blair and Stout’s theory lies in the observation that much production depends on the joint effort of several individuals, but such joint production carries risks of *shirking* and *rent-seeking* (I will explain these terms shortly). They cite Armen Alchian and Harold Demsetz as major forerunners. Specifically, Alchian and Demsetz discuss cases where multiple people’s labor and skills are essential in making a certain product. How, then, should they determine the compensation each member gets? If they agree to a strict rule in advance (A

gets X%, B gets Y%, etc), each member has an incentive to *shirk* (i.e., not contribute) and free-ride, since they will get the amount of money assigned to them by the rule no matter what. If they instead agree to determine allocation post-production, so that everyone's contribution is known first, each will have an incentive to engage in *rent-seeking* (i.e., seek the highest return possible) and argue for a higher reward when the time comes, wasting time and effort. Alchian and Demsetz's solution is to appoint a "monitor" who can observe members' conduct and punish those who shirk by withholding wages. The monitor is incentivized to do so by receiving the leftover profits of the team once all members have received wages (266). Blair and Stout object, however, that this story assumes all employees are "interchangeable units that brought no special skills to—and, more importantly, made no special investment in—the team," but in fact certain individuals possess unique skills or make unique investments (267). Note that shirking is extremely similar to (if not quite as broad as) Williamson's concept of opportunism. Furthermore, the rent-seeking concern is a limited version of Coase's major argument: the concern with rent-seeking is that people will spend too much time haggling over the division of profits, which is one type of transaction cost we eliminate by having firms instead of the price mechanism.

Another important forerunner Blair and Stout discuss is Bengt Holmstrom. Holmstrom focuses on the fact that it is often difficult or impossible to monitor workers and prevent them from shirking, and discusses whether it is possible even in theory to design a contract that (a) prevents shirking and (b) obeys a "budget constraint" that ensures all profits made from joint production are given to team members *and no one else* (268). Holmstrom argues that such a contract is theoretically impossible, and Blair and Stout summarize his (very technical and

mathematical) argument thusly. The only way to disincentivize shirking is to force each member to lose money for it. But if members cannot be fully monitored, the only way to do this is for *all* members to lose money if anyone shirks. This breaks requirement (b): since all team members are fined, part of their profit has to go to *someone else* who is not a part of the team (it is irrelevant who this person is, because whoever it goes to, requirement (b) is violated).

Holmstrom suggests that this can be solved by having a third-party “budget-breaker” receive the remaining profits, but says it is important that they cannot control the team, as they would then be incentivized to bribe a team member to shirk, thus ensuring that the team is penalized and the budget-breaker receives the excess money (268-269). The key difference between Blair and Stout’s theory and Holmstrom’s, they say, is that Holmstrom views the employees as the team members and the shareholders as the “budget-breakers,” while Blair and Stout “argue that shareholders, executives, and employees are *all* team members, and that the budget breaker is *the corporation itself*” (269). In other words, Blair and Stout are objecting to the idea that the shareholders receive any extra profit the corporation makes. Rather, they are asserting that everyone involved—workers, employers, and shareholders—are part of the same “team,”<sup>12</sup> with profits divided between them, the surplus going to the corporation *itself* as a legal entity. I will discuss their argument for this claim shortly.

The final major influence cited by Blair and Stout is an article by Raghuram G. Rajan and Luigi Zingales. Rajan and Zingales focus on cases where all parties (let us assume there are two for simplicity’s sake) make an *irrevocable investment* in the team—e.g., learning a skill that is only useful for that particular venture—and so they are “at each other’s mercy” (272), as neither

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12. Again, this does not necessarily make them all *equal* members (indeed, they almost always are not). I will discuss this more at the end of the section.

can leave the team while still making a profit. How, then, should they share the profits? If we give one of them (*A*) control rights, not only would we disincentivize *B* from investing, even *A* may lose her incentives to invest her time and skills in the venture, as *A* can instead threaten to sell her stake to a third party to extract further concessions—and while this may end up benefiting *A* personally, it reduces overall social returns since *A* is not thereby investing optimally (273). Rajan and Zingales’s solution is to give up control rights to an outsider, someone who is not a member of the team at all. Not only will this outsider be incentivized to select an efficient team, but the team members *themselves* can safely invest because they know the other team members do not have the power to harm them (274). As Blair and Stout point out, this means that team members submit to hierarchy *for their own benefit*, and they even draw a comparison to Thomas Hobbes’s political theory (274-275cc), a comparison I will discuss in more detail in Section 3.

This idea is the foundation of Blair and Stout’s actual theory. To summarize their theory: it is in the collective interest of the team as a whole to reduce shirking and rent-seeking, as such behaviors hurt everyone (271). Behavior that is rational for each *individual* member to engage in ends up damaging the entire team if *everyone* engages in it. To avoid this, they *all* give up decision-making authority and rest it in *the corporation itself*. As Blair and Stout say:

“The act of forming a corporation thus means that *no one team member is a “principal”* who enjoys a right of control over the team. To the contrary, once they have formed a corporation and selected a board, the team members have created a new and separate entity that takes on a life of its own and could, potentially, act against their interests. . . . [T]eam members understand they would be far less likely to elicit the full cooperation and firm-specific investment of other members if they did not give up control rights [themselves].” (277)

To understand this, recall the “grand-design principal agent” view I summarized earlier, that a “principal” (usually shareholders) sits at the top of a corporation and delegates their authority to “agents” (managers) who operate the corporation on the principal’s behalf and for the principal’s benefit. Contrary to this view, Blair and Stout argue that shareholders are *part of the team*, and alongside the employees they give up control rights to a separate, third-party hierarchy (this being the corporate bureaucracy, including executives, managers, etc). But it is perhaps even misleading to say that this hierarchy is above the team. Rather, Blair and Stout say, “hierarchs work for team members (including employees) who ‘hire’ them to control shirking and rent-seeking among team members” (280, emphasis removed). The point is not that managers and employees are the same; obviously the managers have the power to direct the employees. The point is that the job of the board of directors is not to maximize shareholder value. They are “trustees for *the corporation itself*<sup>13</sup>—mediating hierarchs whose job is to balance team members’ competing interests in a fashion that keeps everyone happy enough that the productive coalition stays together” (281). In other words, the purpose of the managers’ power is to benefit the team *as a whole* by balancing their interests and making sure nobody shirks or rent-seeks.

Blair and Stout do introduce four caveats to this theory (281-285):

(a) It only applies to public corporations and not necessarily private corporations.<sup>14</sup>

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13. Note the similarity with Ellerman and Ciepley: the corporation is an *independent entity* that has its own interests, owns its own property, etc.

14. This is because, in a private corporation, the shareholders are *also* the executives and are typically highly involved in managing the firm (281). Personally, I think their theory applies to private firms as well, since even an owner-executive needs to work together with their employees to efficiently produce commodities. But I will not argue for this point extensively.

(b) Most disputes are likely worked out by team members themselves; indeed, a primary function of the hierarchy is to incentivize this in order to avoid “kicking the problem upstairs.”

(c) There is no guarantee that the resulting division of profits is fair.

(d) Directors are not altruists. They are incentivized to avoid egregious abuses that would destroy the company, but not anything more than that. This, however, may be good enough.

The rest of Blair and Stout’s article is an argument that US corporate law, when examined closely, is more in line with their theory than the principal-agent model. I am not so concerned with this myself—even if US law assumes shareholder supremacy, that would just be a reason to change the law—so I will summarize their argument here quickly. Their main argument is that corporate law tasks the board of directors with serving, not the shareholders’ interests only, but “the interests of the legal entity known as the ‘corporation,’” which itself “can be understood as a joint welfare function of *all* the individuals who make firm-specific investments” (288).

“Stakeholders” usually means the investors, executives, *and* employees, though in some cases this may include creditors or even the local community (*ibid*). The board of directors is not the agent of the shareholders because corporate law does not permit shareholders to actually order the board to do anything in particular (291). While shareholders can, in some circumstances, bring a suit against the board on behalf of the company, this is so that they can protect the interests of the corporation *as a whole*, not just their own interests (293). Indeed, historically, suits of this kind are only successful if the shareholder’s claim benefits stakeholders other than themselves (298-309). Furthermore, the abilities of shareholders to elect and remove the board of

directors “are so weak as to be virtually meaningless,” in both theory and practice (310). Not only are the shareholders of most public corporations so diffused as to make it practically impossible for them to act together, but the directors themselves have the legal “authority to set the date for certain elections, nominate candidates for the board, and use corporate funds to solicit proxy votes from shareholders who do not plan to attend the shareholders’ meeting (usually the overwhelming majority),” such that boards more or less “elect themselves” (311, emphasis removed). The main function of shareholder voting at all, Blair and Stout argue, is to be a check on “flagrant malfeasance” (312). Blair and Stout argue this is in line with their theory, both because shareholders providing this check benefits the entire team, not just themselves, and because it provides compensation for the fact that shareholders are not in contact with the corporation day-to-day and so have a hard time negotiating with its representatives, not to mention the fact that their great number makes collective action difficult (313-314).<sup>15</sup>

One may object that Blair and Stout have far too rosy a view of the relationship between employers and employees.<sup>16</sup> Bosses and workers are not part of the same “team” but rather have a hierarchical—even antagonistic—relationship. While I cannot speak for Blair and Stout, I do not think their theory has to be interpreted as saying that employers and employees have the same interests or are on equal levels. To the contrary, they say that the division of profits within a corporation need not be fair, and it may be determined more by power than by economics (282-283). As I see it, the point is not that employers and employees are on the same “side.” The point is that some sort of external entity—the “corporation,” with the board of directors as its agent—that has control rights over employees helps *keep the employees together* by preventing shirking

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15. The reader may note that both these reasons apply to the employees as well (since almost all employees have no real access to top-level management), unless they have a union.

16. I thank Carol Gould for this objection, as well as the following one.

and rent-seeking and in general providing a clear way for them to resolve their internal conflicts. This entity may favor one side over the other—indeed, it almost always does—but that is still preferable to having *no corporation at all*, as the corporate structure helps guarantee that everyone is willing to cooperate and invest in the corporation. In other words, corporations benefit employees by making it more likely for the employees to cooperate *with each other*.<sup>17</sup> (The question, then, is not whether or not to have a corporation, but how to determine who is in charge of it, which will be the subject of Chapter 4.) While using terms like “team members” does imply that the interests of workers and managers are aligned, that is not true of Blair and Stout’s underlying theory. The theory does not need to state that everyone is on the same “team,” but merely that even those with antagonistic interests need to find some way to work together, and the corporation provides that way.

Finally, one may object that Blair and Stout’s analysis, the same as Ellerman’s, unduly neglects the role of capital. Owning capital is what enables people to be in charge of hierarchical corporations (and firms in general),<sup>18</sup> this objection says; alternatives, such as worker-run cooperatives, are disfavored precisely because workers lack access to capital. To respond: Certainly, in contemporary capitalist economies owners of capital almost always control the firm, and I do not claim this is a coincidence. Furthermore, it is undeniable that capitalists have certain advantages over workers, such as the ability to last longer in a strike due to their ability to live off their capital. Nevertheless, these advantages do not by themselves explain why capitalists control the firm, for two reasons. First, as I argued above, despite the issues with his argument,

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17. As we will see in the next chapter, this concept—that even cooperation that unfairly benefits one party is preferable to no cooperation at all—lies at the heart of “coordination games.”

18. This final objection, and my reply to it, apply to firms in general as well as corporations in particular, so I will switch back to ‘firm’ for them.

Ellerman is correct that it would be *possible* for workers to rent capital assets, thus controlling the firm (and owning its surplus profit) without actually owning the capital.

The second reason takes us toward the heart of the nature of managerial power. Currently, those at the top of firms own capital and use that capital to hire other people in exchange for wages. When they do this, they are able to control the actions of their new “employees” while they are on the job—another way to say this is, by doing this they gain *power*. But all this shows is that capital ownership is *correlated* with power in a firm; it does not prove that capital ownership *causes* such power, or *enables* the power all by itself. In this chapter thus far, I have summarized theories that suggest this power might be based in something else, namely, the fact that working under *a* manager (not a particular one, just some manager or other) has benefits *for the workers* over needing to make a separate contract every time they make a transaction with each other. In Chapter 4, I will give more arguments in favor of this view and against the theory that economic power is based merely in property ownership. For now, it suffices to say that while owning capital is *related* to having power in a firm, it is insufficient to *explain* that power.

To summarize, Blair and Stout argue that public corporations, both in theory and in legal fact, are not best understood via a “principal-agent model” where shareholders have control rights and everyone else (from the board of directors on down) is obligated to maximize their revenue. Rather, a public corporation is an attempt to solve problems of shirking and rent-seeking that arise when a number of individuals make firm-specific investments in a particular enterprise. By giving up control rights to a separate entity, *the corporation itself* (“instantiated” by the board of directors who serve as the corporation’s agents), “team members” (to use Blair and Stout’s locution) are able to protect themselves against each other and safely engage in

productive activity. Combined with Ellerman and Ciepley, we can say: a corporation is not an asset; it is a pattern of contracts that form an independent entity that exists in order to guarantee everyone related to the company (workers, managers, and stockholders) is willing to invest in it and cooperate with each other. These theorists provide further backing to the view I derive from Coase and Williamson that the function of a firm is to enable people to cooperate without relying on the price mechanism, especially in a modern economy where most firms are corporations. But as Blair and Stout themselves recognize, this theory is quite similar to many political theories about the origin and/or function of the state, a comparison I will now pursue.

### **Section 3: The Lockean State**

In the previous section, we saw Blair and Stout recognize that their theory of the corporation is very much like social contract theories of the state. In this section, I will show that the same is true for Coase and Williamson, specifically, that their theory of the firm bears surprising similarities to John Locke's theory of the state. The Lockean state of nature is analogous to the hypothetical economy where everyone is self-employed; the problems Locke cites with the state of nature are analogous to the problems with the price mechanism; and the solution, of course, is the same—hierarchical power. I will first briefly summarize Locke's famous theory, focusing on the aspects that will be relevant to my thesis, and then I will argue for the similarities.

Locke begins his *Second Treatise* by arguing that, to understand political authority, we need to understand humanity's natural state. According to Locke, this is "a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature, without asking leave or depending upon the will of any

other man” (Locke 1823, 106).<sup>19</sup> For our purposes, there are three major features of the Lockean state of nature. The first is *equality*: “all the power and jurisdiction is reciprocal, no one having more than another” (*ibid*). In Locke’s view, any sort of authority relation whereby one human can order around another human is *artificial*, a convention created by humans. This appears to be the reason why the state of nature is one of “perfect freedom”: I have freedom not because I can do whatever I want (obviously nobody can do this), but because no other *human* has the power to determine my actions.

However, while each individual is free and equal, they do not have the right to do anything they please, because they must obey the law of nature. The law of nature is the second major feature of Locke’s theory, and it is essentially a set of moral standards Locke believes all rational persons can recognize. Since we are all equal (as stated above), we were all created by the same God (and so are His property), and we have similar faculties, “no one ought to harm another in his life, health, liberty or possessions” (107). Locke assumes that all rational people will *agree* to this law of nature and will follow it of their own free will.

This leads to the third major feature of Locke’s state of nature, how the law of nature is *enforced*. Locke says, “the execution of the law of Nature is in that state [the state of nature] put into every man’s hands, whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation” (108); after all, the law of nature has to be enforced by *someone*, and since everyone is equal, the right to punish lawbreakers cannot be assigned to some people over others. In other words, every human will serve as judge, jury, and executioner.

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19. Again, I do not share Locke’s individualistic assumptions. Here, I’m merely pointing out that his theory is very similar to the Coase/Williamson theory.

This is possible because, again, Locke thinks (almost) everyone will naturally recognize the law of nature as a valid moral code.

We can now proceed to my main argument in this section: Locke's progression from the state of nature to political authority and Coase and Williamson's progression from a free market to an economy dominated by firms are remarkably similar. The first notable aspect is that both arguments have roughly the same format: imagine a hypothetical situation without the given hierarchical institution (the state for Locke, the firm for Coase/Williamson), then, in a *reductio ad absurdum* style, demonstrate the problems with the hypothetical that explain/justify why the hierarchical institution exists. As we will see, though, not only is the argumentative structure analogous in both theories, but so is each individual step. I will begin by demonstrating that the Lockean state of nature is similar to the hypothetical economy made up solely of self-employed workers that I talked about in Section 1. Indeed, each of the three features of Locke's state of nature I have mentioned has an analogue in the world of independent producers. I will start with the law of nature, the analogue of which is the price mechanism.

Consider: Thomas Hobbes's state of nature is so brutal and terrifying not merely because humans lack government, but because humans lack *any* unifying element *at all*: for any agreement to be "constant and lasting," humans need "a common power, to keep them in awe, and to direct their actions to the common benefit" (Hobbes 1955, 112). To put it in game theoretic terms, coordination games can only be solved if I can reasonably expect what the other person will do. I cannot do this in Hobbes's state of nature, so cooperation is impossible. On the other hand, I *can* cooperate with other humans in Locke's state of nature, even if they are complete strangers, because I can confidently assume that they will believe in and follow the law

of nature. It is this *expectation* that enables cooperation—if we expect everyone else to follow the law of nature (in Locke’s case, because it is morally correct to follow it and all rational beings will recognize this), we can do so as well without risk of getting taken for a ride, and thus we end up coordinating *even without* meeting each other.<sup>20</sup> This is precisely how the price mechanism works as well. As I said above, the point of the price mechanism is that it allows people to unconsciously cooperate with each other, because they can have confidence that *everyone else* will also follow the price mechanism. And just like we can confidently expect cooperation in Locke’s state of nature because everyone obeys the law of nature, neoclassical economists assume that we can be confident that everyone will obey the price mechanism because rational humans will always seek to maximize their own profits. To summarize, then, the law of nature and the price mechanism have the same function: they are both *universal rules* (or customs) that we can (according to the respective theories) accurately expect everyone else to follow, thus making it rational for us to follow them as well, thus making it possible for strangers to cooperate with each other.

The other two features of Locke’s state of nature also have analogues in the economic realm. As I said earlier, in Locke’s state of nature nobody has (political) power over anyone else. The same is true for the society of independent producers: since there are no firms, no one has to obey the orders of any boss; everyone produces what they want in the way they want to. Of course, they will only produce what they think will maximize profits—they still obey the price mechanism, analogously to how the people in Locke’s state of nature obey the law of nature. As for enforcement, the price mechanism is effectively enforced by the fact that individuals get to

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20. I will explain this idea, as well as coordination games in general, in much more detail in Chapter 3.

decide for themselves with whom to contract and for what. Thus, assuming again that most people will seek to maximize profits, if someone does not follow the price signals correctly (e.g. by making a product nobody wants) they will be punished by the fact that nobody will exchange with them. In other words, as in Locke's state of nature, everyone gets to be an enforcer for the price mechanism. To summarize, Locke's state of nature and the world of independent manufacturers are similar inasmuch as, in both worlds, *no human* is in charge. Rather, an abstract universal rule is "in charge," whether that rule is the law of nature or the price mechanism, and most or all humans obey and enforce that rule.

Locke's politics and Coase and Williamson's economics are also similar with regard to the *problems* both theorists identify with their respective starting points. The major downside Locke cites is that leaving criminal justice up to each individual makes it vulnerable to individual biases. He largely agrees with the idea "that it is unreasonable for men to be judges in their own cases, that self-love will make men partial to themselves and their friends; and, on the other side, ill-nature, passion, and revenge will carry them too far in punishing others, and hence nothing but confusion and disorder will follow" (Locke 1823, 110). In other words, Locke's chief problem with the state of nature is that, since people are biased toward themselves and their friends, we cannot trust them to impartially enforce the law of nature. Some neutral third party with enforcement authority, i.e. a government, is required. This is very similar to Williamson's argument that the free market is bad at dealing with opportunism because people have an incentive to cheat and, at least if the market is small, are unlikely to face consequences for that cheating if nobody is "in charge" who can punish them. In both cases, the basic issue is that

abstract rules (both the law of nature and the price mechanism) cannot enforce themselves, and when enforcement is left up to *everyone* there will be many opportunities to cheat.

What about the other problem discussed in Section 1, that due to bounded rationality and the resulting consequence that making a perfect long-term contract is impossible, trading in a free market setting often takes too much time and energy? Admittedly this does not have a precise analogue in Locke's *Treatise*, but we can draw one out from what Locke does say. Recall that in Locke's state of nature it is up to each individual to punish anyone who breaks the law of nature. This would effectively require everyone to be a detective, lawyer, and judge whenever someone harms them or their friends and family, and if found guilty, they would then have to punish the lawbreaker themselves. Additionally, it is possible that *multiple* people would want to punish some act of lawbreaking, and they would have to somehow determine who would actually do it. While Locke chiefly objects to this system's vulnerability to opportunism, it is also surely true that it would take a lot of *time* for ordinary individuals to do all these things, time that they would rather spend doing other things. Hence, at least in a large society, the "each individual enforces the law" system would take up far too much time and energy, similar to Coase and Williamson's criticism of the price mechanism.

So far, I have argued that an economy without firms and Locke's state of nature bear a striking resemblance and that the problems Coase/Williamson cite with the price mechanism to explain why firms arise are also very similar to the problems with the state of nature. This is already enough to suggest that their respective solutions—the creation of companies, the creation of the state—are also analogous. To confirm this, let us look at precisely how they describe their solutions. First is Locke:

“Man . . . hath by nature a power . . . to judge of and punish the breaches of that law [the law of Nature] in others, as he is persuaded the offence deserves. . . [T]here, and there only, is political society where every one of the members hath quitted this natural power, resigned it up to the hands of the community . . . And thus all private judgment of every particular member being excluded, the community comes to be umpire, and by understanding indifferent rules and men authorised by the community for their execution, decides all the differences that may happen between any members of that society concerning any matter of right.” (141)

In other words, in the state of nature every person has the right to judge for themselves when someone else has broken the law of nature and therefore the right to punish others for breaking it as they see fit. However, when they form a government, they give to *the community*, in particular the community’s representatives, the power to do these things. Or, to put it another way, in the state of nature the law of nature “rules” *by means of* each individual person interpreting it and applying it for themselves; on the other hand, in an artificial state only the heads of government have the power to interpret the law of nature, and this power is the source of their authority.

Now consider the following from Coase:

“Outside the firm, price movements dictate production, which is co-ordinated through a series of exchange transactions on the market. Within a firm, these market transactions are eliminated and in place of the complicated market structure with exchange transactions is substituted the entrepreneur-co-ordinator, who directs production.” (Coase 1937, 388)

Outside of a firm, exchange relations are dictated by the price mechanism. But of course, the price mechanism does not *directly* control behavior; to be more specific, when individual people contract with each other, they personally interpret the price mechanism (by determining what the relevant prices are) and enforce it (by refusing to contract unless it maximizes their profits). However, inside a firm, it is the “entrepreneur-co-ordinator,” i.e. the manager, who dictates production. Rather than each person interpreting and applying the price mechanism for themselves, the manager decides what activity would make the firm the most profit. They then

execute this decision partly through their orders' coordinating effect and partly through their ability to punish anyone who disobeys (through dismissal in the extreme case). While Locke is talking about governments and Coase is talking about firms, the core idea behind each theory is the same. In each case, individuals who "beforehand" lived in freedom and equality give to someone else (the government, the management) a power they used to have (criminal justice, exchange transactions) in order to attain efficiency and/or stability.

To conclude, each aspect of the Coase/Williamson theory of the firm has analogues to Locke's theory of the state. The hypothetical economy of independent manufacturers shares many features with the (hypothetical) state of nature; the problems with relying solely on the price mechanism are similar to the issues with the state of nature; and finally, each solution involves the people in question giving up their right to interpret the abstract rule that governs their actions (the price mechanism, the law of nature) to an authority. Of course, this by itself does not imply that Locke's theory is *true*. My point here is not to defend Locke's theory or to claim that it provides additional backing to the Coase/Williamson theory. Nonetheless, these analogies do *suggest* that it is possible to understand the state as fundamentally quite similar to the firm. I will make good on this suggestion in Chapter 4.

### Chapter 3: Coordination Problems and How to Solve Them

Before I begin arguing for my main thesis, there is one more matter to discuss. In Chapter 1, I suggested that the reason most people obey the state is not because of the state's monopoly on violent force, but because they *expect* everyone else to obey the state. In Chapter 2, I discussed Coase's theory of the firm, which is that firms provide a more efficient way for people to work together than the price mechanism, at least in some situations. In this chapter, I will discuss a branch of game theory that ties these two ideas together: *coordination games*, problems in which it is in everyone's best interest to work together, but the challenge is figuring out *how* to work together. Coordination games, and the "focal points"<sup>1</sup> that enable people to solve them, form the basis of the theory of (economic and political) power I will give in the next chapter, so it is vitally important that I explain them in detail first.

I will begin in Section 1 by providing a summary of the basic concepts involved in coordination games, relying on the work of their pioneer, Thomas Schelling. In Section 2, I use Richard McAdams's useful *The Expressive Powers of Law* to cover various particular types of coordination games, explaining them via game theory-style "payoff matrices." I then give some specific examples of actual coordination games in Section 3, both in laboratory experiments and in the outside world, again drawn largely from McAdams. Finally, I end in Section 4 by providing my own arguments for some important matters related to coordination games, including the nature of the "focal points" that enable people to solve them, how they relate to real-world cooperation, and the extent to which people "choose" the focal points they live under. The upshot is that focal points have a kind of *power*, since people effectively have no choice but

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1. I will explain what these are in Section 1.

to follow them in order to cooperate. This insight will lead to my larger theory of economic and political power in Chapter 4.

### **Section 1: Coordination Games and Focal Points**

Game theory is “the study of mathematical models of conflict and cooperation between intelligent rational decision-makers” (Myerson 1997, 1). Unfortunately, many (if not most) of the prominent game theory models focus far more on conflict than on cooperation. The most famous game theoretical concept, the Prisoner’s Dilemma, is a case in point: pure rationality leads to the prisoners not cooperating because their interests are fundamentally opposed—it is in the best interest of each prisoner to defect. However, in my view, the game theoretical study of *cooperation games* is more important to understanding actually existing social systems; indeed, my argument here depends on insights gleaned from them.

Before I discuss cooperation games<sup>2</sup> in detail, though, I need to answer a basic objection to the entire enterprise of game theory. Game theory takes as a fundamental premise that each individual person seeks to rationally fulfill their self-interest, but since most humans are not purely selfish and not wholly rational, one may argue that game theory is thus almost entirely irrelevant to social science and philosophy. However, while I do think this objection has considerable validity when it comes to conflict games, it carries much less force when applied to cooperation games. As I will discuss in detail shortly, what defines a cooperation game is that it is in the self-interest of each player to *cooperate* with the other player(s); the challenge comes from figuring out *how* to cooperate. Therefore, whether people cooperate out of self-interest, altruism, cultural conditioning, or any other reason, the fundamental structure of cooperation

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2. In order to avoid too much repetition, I will use the words ‘cooperation’ and ‘coordination’ interchangeably.

games does not change; as we will see, the important part is not the *motives* for cooperation, but what is required to make that cooperation *successful*.<sup>3</sup>

In his book *The Strategy of Conflict*, Thomas Schelling introduces coordination games with the following example. Suppose a husband and wife get separated in a department store and wish to meet up, but do not have any means of communicating with each other.<sup>4</sup> They will each try to go where they think their spouse will go, of course. The problem is that the wife (for example) cannot simply go to where she thinks her husband is, because she knows that the husband will go where *he* expects she will go. The challenge is for them to *coordinate* their expectations, to “identify the one course of action that their expectations of each other can converge on” (Schelling 1980, 54). The way to do this is for them to both recognize some sort of “unique signal” (*ibid*), a signal that enables them to match their expectations to the other’s and so successfully meet up. For example, they might decide to go to the lost and found, since they are after all lost and want to find each other; alternately, they may try to reason about where they *would have* agreed to meet up had they planned for this scenario in advance (57). The point is that it does not matter what this “signal” is; anything will do, as long as each party *expects the other* to also choose the same option. It must be *unique* because all parties need to do the same thing. Multiple options is a liability here, because it makes it harder to accurately predict what the other party will do.

More examples of coordination games may help elucidate the concept. Consider: Two people parachute into an area that each has a map of, but they do not know where the other parachutist landed; if the map has a bunch of roads but only a single bridge, they are likely to go

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3. I will say more on this subject in Section 4.

4. When the book was written, there were no cell phones. We can assume here that they left their cell phones at home.

to the bridge—the bridge here serving as the unique signal (55). Schelling gives several more examples, including knowing the date you must meet someone but not the time, so that you both must guess the same time to meet up—here 12 noon serves as a unique signal (55cc-56); you and a partner must divide \$100 into two piles, and if you both make the *same* division without communicating each of you will get \$100—here a 50-50 split is the unique signal (56-57). Schelling argues that most solutions to these coordination problems are characterized by “some kind of prominence or conspicuousness,” but a prominence that is *relative* to particular times, places, cultures, etc (57-58). For example, other cultures would likely pick a different time to meet up than 12 noon.

I would like to emphasize here that regardless of how “obvious” these solutions (which Schelling calls “*focal points*,” a term I will use from here on) are, from a purely rational point of view they are almost inexplicable. A and B want to do the same action (for instance, go to the same place), but do not know what the other will do. A should do what she expects B to do, but she knows B will only do what *he* expects A will do, which is of course what she expects B to do, and so on in an infinite regress. What the focal point does is somehow cut off this regress. A “sees” the focal point X and thinks (consciously or, more likely, unconsciously) the following:

(1): “X is a prominent or conspicuous solution, so B will *expect me* to do it, which means that B will also do it. And since I can expect B to do X, I should also do X.”

If we question A *why* she thinks B will expect her to do X, she can respond: “Because B knows I will think (1), he will reasonably expect me to do X.” Technically speaking, this is circular reasoning. A expecting B to think she will do X is the entire basis for (1), but (1) is also the only possible way to *justify* her expecting B to think she will do X. Despite this logical invalidity,

though, focal points *work*; I will discuss real-life focal points, both in the lab and “on the streets,” below. Schelling is thus right when he says that focal points “may depend more on imagination than on logic, more on poetry or humor than on mathematics. . . . [H]ow well people can concert in this fashion is something that, though hopefully amenable to systematic analysis, cannot be discovered by reasoning a priori” (97-98). I will say more about what precisely focal points are at the end of this chapter. For now, it is enough to say that they are perspicuous, “obvious,” or “natural” solutions to coordination games, that they converge people’s expectations upon themselves and in that way enable people to successfully cooperate.

Coordination games become more complex when we introduce non-equal rewards into the picture, i.e., when the focal point *benefits* one player over another. Take this example (60-61): you and two partners/rivals are assigned the letters A, B, and C. The three of you must, without communicating, arrange those letters in the same order. If you do, the one whose letter comes first on all three lists gets \$3, the one whose letter comes second gets \$2, and the one whose letter is third gets \$1. We can see that, even though all three players have the same goal in one sense (they all want to arrive at the same order as the other two), they have a different goal in another (since they all want their letter to be first). Even with this added bit of competition, though, we can expect the “obvious” solution or focal point, the alphabetical order A, B, C, to prevail—as indeed it did when Schelling informally tested this game (63cc).

I should note that all the examples discussed thus far forbade the players from communicating with each other. Given this restriction, one might wonder whether the concept is very applicable to the real world, since most humans *can* communicate with the majority of people they meet. But the existence of communication does not render focal points irrelevant,

quite the contrary—communication *is itself* a focal point. After all, the reason that communication would immediately solve the coordination games discussed thus far (except, perhaps, the unequal-payoffs one) is because it would give the players a quick and easy way to match their expectations: A proposes a solution, B expects A to take that solution and so accepts it himself, and A expects B to follow her proposal so A follows it too. Indeed, it did not even have to be A or B who proposed the solution in the first place for this to work, *anyone* could have, a concept I will explore in more detail in Section 3.

## **Section 2: Payoff Matrices**

So far, I have attempted to explain the key concepts of coordination games and focal points without recourse to the traditional mathematical game theoretic techniques. However, at this point I think that introducing a few simple payoff matrices will help elucidate the concepts I talked about in Section 1. The rest of this section is largely a paraphrase of Chapter 2 of Richard H. McAdams's *The Expressive Powers of Law* (2015).

I will start by discussing the famous prisoner's dilemma, as it provides a good contrast to the later coordination game examples. McAdams explains it thusly (29-30). A prosecutor gives two prisoners the following choice: they can confess to a crime they committed, or deny that they did the crime. If neither confesses, the prosecutor only has enough evidence to convict them for a misdemeanor offense, which would result in 1 year of jail time. If one confesses and the other does not, the one who confesses will not be prosecuted at all (0 years of jail time) and the other will get a full 5 years. If both confess, they will both be convicted but will receive a medium sentence of 3 years. We can visualize the options open to each prisoner by using a payoff matrix, like so:

<b>Prisoner's Dilemma (PD)</b>	Prisoner 2 Deny	Prisoner 2 Confess
Prisoner 1 Deny	-1; -1	-5; 0
Prisoner 1 Confess	0; -5	-3; -3

In table **(PD)**, and all future payoff tables, the first number is always the penalty Prisoner 1 (or Player 1) will receive, while the second number is the penalty Prisoner 2 (or Player 2) will receive. The point of the prisoner's dilemma is that no matter what Prisoner 2 does, it is always in Prisoner 1's self-interest to confess: either it will change their penalty from -1 to 0 (if Prisoner 2 denies) or from -5 to -3 (if Prisoner 2 also confesses). However, because the same is true for Prisoner 2, they will both confess if they are purely self-interested, resulting in a confess/confess outcome, which is worse *for both* than the alternate deny/deny outcome. Hence the "dilemma."

We can use a similar payoff matrix to describe a pure coordination game. McAdams changes the nature of the prisoner's dilemma to the following (31-32): this time, the challenge for the prisoners is that they are sequestered and each must give the prosecutor the same alibi. If they succeed in coming up with the same alibi, they will both get off scot-free; if they fail, their lie will be exposed and they will both get 5 years in jail. The following table illustrates this game:

<b>Pure Coordination (PC)</b>	Prisoner 2 Alibi A	Prisoner 2 Alibi B
Prisoner 1 Alibi A	0; 0	-5; -5
Prisoner 2 Alibi B	-5; -5	0; 0

This is a pure coordination game because the prisoners' interests are not opposed to each other: it is in their mutual self-interest to choose the same alibi. As discussed in the previous section, the only way to reliably solve this game is if one of the alibis can serve as a focal point.<sup>5</sup>

Next, it will be helpful to introduce two coordination games with unequal payoffs.<sup>6</sup> First is the "Assurance Game." McAdams introduces it in the following way (32-33): we once again have a prosecutor and two prisoners, but this time the prosecutor has so little evidence that all the prisoners need do is stay silent and they will get off with no jail time. If both confess, they will receive 5 years; if one confesses and the other does not, the one who confesses will receive 1 year and the other one 10 years. The payoff matrix we get is the following:

<b>Assurance Game (AG)</b>	Prisoner 2 Deny	Prisoner 2 Confess
Prisoner 1 Deny	0; 0	-10; -1
Prisoner 1 Confess	-1; -10	-5; -5

As McAdams argues, in **(AG)** each prisoner is incentivized to do *whatever* the other prisoner does. If Prisoner 2 denies, so should Prisoner 1 ( $0 > -1$ ); if Prisoner 2 confesses, so should Prisoner 1 ( $-5 > -10$ ). So this is a kind of coordination game, because each player wants to do whatever the other player does. But it is more complicated than a *pure* coordination game because the payoffs are asymmetric, in two ways. First, one of the solutions, Deny/Deny, is superior to the other, Confess/Confess. Second, unlike in **(PC)**, the options where the players *fail* to cooperate are also unequal: the worst possible option for Prisoner 1 is if they Deny while the

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5. Any pure coordination game can be visualized with a payoff matrix similar to **(PC)**, even if it has more than two possible options. All one must do is expand the matrix to X rows and columns, where X is the number of possible options. The solutions will always be in a diagonal line from the top-right to the bottom-left.

6. McAdams actually discusses three, but the other one (the "Battle of the Sexes" game) is not particularly useful for my purposes so I will not mention it.

other one Confesses. Absent a focal point, then, we can understand Deny as a “risky” play, because while it has the potential of leading to the best possible outcome (Deny/Deny), it can also lead to the worst possible one (Deny/Confess).

The final payoff matrix I will describe is the one for a “Hawk/Dove Game.” McAdams’s story here (36-37) is a bit convoluted so I will not use it and will simply give a similar table to his:

<b>Hawk/Dove (HD)</b>	Player 2 Dove	Player 2 Hawk
Player 1 Dove	-1; -1	-2; 0
Player 1 Hawk	0; -2	-5; -5

The idea here is that we have a game where each player can either *insist* on getting their way (“Hawk,” as this is a more aggressive strategy) or *defer* to the other player (“Dove,” as this is a more passive strategy). If each insists on getting their way by playing Hawk, cooperation breaks down, hence the large penalty for the Hawk/Hawk outcome. This is a different type of coordination game than the ones we have encountered thus far because here, it is in the interest of each player to take *different* strategies. If Player 2 plays Dove, it is in Player 1’s self-interest to play Hawk ( $0 > -1$ ); on the other hand, if Player 2 plays Hawk, it is in Player 1’s self-interest to play Dove ( $-2 > -5$ ).

The problem is that both players would ideally like to play Hawk, but the worst possible outcome *for both* is Hawk/Hawk. Typically, then, the best (self-interested) strategy is to attempt to convince your partner that you intend to play Hawk no matter what your partner does. If Player 2 is convinced that Player 1 will *definitely* play Hawk no matter what, they are incentivized to play Dove. However, since Player 2 knows that *neither* of them want a

Hawk/Hawk option, it is often difficult for them to be so convinced—she knows that if *she* plays Hawk, Player 1 is incentivized to play Dove. This can potentially lead to a standstill. Focal points help resolve this standstill by making a particular Hawk/Dove outcome “natural” or “obvious.” If P1 Hawk/P2 Dove is “obvious,” then it is much easier for Player 1 to convince Player 2 that he will play Hawk, thus incentivizing her to play Dove, (I will explain this in more detail when I discuss a real-life Hawk/Dove game in the next section.)

For my purposes, it will occasionally be helpful to cite a modified Hawk/Dove game that goes like this:

<b>Hawk/Dove Modified (HD-M)</b>	Player 2 Dove	Player 2 Hawk
Player 1 Dove	-3; -3	-2; 0
Player 2 Hawk	0; -2	-5; -5

By changing the Dove/Dove payoff from -1/-1 to -3/-3, I have made it inferior to each Hawk/Dove outcome for *both* players. Note than in the previous Hawk/Dove matrix (**HD**), the players might choose to “compromise” on Dove/Dove, which has equal total utility to the Hawk/Dove outcomes (-2) but spreads it evenly between both players. In this new (**HD-M**), though, there is no such compromise; one person playing Hawk and the other playing Dove is better *even for the Dove player* than a mutual Dove/Dove solution. In other words, the only way to achieve the best possible outcome for *everyone* is for one person to play Hawk (and the other Dove), even though once more Hawk/Hawk is the worst possible outcome.

### Section 3: Specific Examples

In this section I will give some concrete examples of coordination games, both in the lab and in regular society. Because I am most interested in “mixed-motive” games where the players

are motivated to cooperate but will receive unequal rewards for doing so, I will focus on those. Some will take the form of an Assurance Game (**AG**) while others will be a Hawk/Dove game (**HD**) or (**HD-M**).

Schelling takes riotous mobs to be a real-world example of a pure coordination game. As he says, to be an effective mob, the participants must “know not only where and when to meet but just when to act so that they act in concert” (Schelling 1980, 90). Without explicit leadership, the only way to do this is for there to be some clear signal such that everyone (or at least most people) can be confident that many *other* people will gather and act in a specific place, so if they do so they will not be alone. For this reason, it is a lot harder to form a riotous mob if there is no “obvious” place to gather such as a central location or cultural landmark (*ibid*). While Schelling does not say this, his point is further backed up when we consider that most if not all riots require some specific “inciting incident” to begin, even if the riot itself is caused by long-term social factors. The reason for this is that, even if I personally would like to riot (or even just protest), I cannot do so with any efficacy until I know that a large number of *other* people will riot (or protest) with me. The inciting incident thus works as a focal point—because everyone expects that everyone else will gather in a particular location as a result of the incident, they do so as well, and the mob is formed.

McAdams argues that a bank run is a real-world example of an assurance game (**AG**). While some say that a bank run represents the breakdown of a prisoner’s dilemma, McAdams points out that cooperating (not withdrawing one’s money) is actually more beneficial to the individual than defecting (withdrawing the money), as there are costs in time and money to do the latter (McAdams 2015, 31). A bank run only happens if people *expect others* to withdraw

money, and so they withdraw theirs in an effort to beat the rush; if I do not expect this, I have no reason to withdraw (unless I want to spend the money, of course). As McAdams says, because a bank run involves people looking to coordinate behavior, withdrawing if everyone else withdraws and keeping put if everyone else keeps put, a bank run is an example of a coordination game (*ibid*). Specifically it is an assurance game, because one focal point (everyone stays put) is more preferable to *all* than the other (everyone withdraws), but the worst possible outcome is when I stay put while everyone else withdraws. Therefore, the key to “solving” a bank run is to plausibly assure everyone that only a very few people will withdraw their money at any one time. For instance, I would argue that deposit insurance fulfills this function in modern economies. If the government guarantees that I can always withdraw the full value of my bank account no matter what, then even if a bank is in trouble, I am credibly assured that most other people will not rush to withdraw their money. Since I am so assured, I have no reason to rush to withdraw *my* money. Since everyone else reasons the same way, no bank run occurs.<sup>7</sup>

Two cars meeting at a 4-way intersection on perpendicular streets provides a good example of a Hawk/Dove game (77), specifically the alternative I presented (**HD-M**). In this case, we can think of “Hawk” as continuing to drive through the intersection, while “Dove” is stopping. If neither driver stops—i.e., both play Hawk—they will crash, the worst possible outcome for *both* drivers. If both drivers stop, neither will be able to proceed and they will have to play the “game” again, the second-worst outcome. Thus, just like in my (**HD-M**), it is better for *both* drivers if one person plays Hawk and the other plays Dove, i.e., one of them stops and

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7. Indeed, I would argue that this is the main reason deposit insurance works to prevent bank runs. Because deposit insurance exists, I am credibly assured that nobody else will rush to withdraw their money even if a bank is in trouble, and therefore I also do not withdraw—and everyone else follows the same logic, so no bank run occurs.

the other continues driving. The most efficient way to solve this problem is through a focal point. The usual focal point is a traffic light or sign. As McAdams argues, if I am driving and see a yield sign, I will expect that drivers on the opposite road are very likely to play Hawk (continue driving), and so it is in my best interest to play Dove (stop) even if we ignore the risk of state sanctions (*ibid*). However, a similar coordinating function can be served by other focal points as well. McAdams discusses an interesting case where, after a major earthquake in Haiti, a man named Levy Azor successfully directed traffic despite having no state backing whatsoever. As McAdams argues, drivers could not have obeyed Azor's directions because they feared he would punish them (he could not) or because they respected his legitimacy (he had no legitimate 'right' to direct traffic). Azor succeeded because he was a focal point; if I see him directing the other driver to go, I will *expect* the other driver to go, so it becomes in my best interest to stop—at least, until he directs *me* to go, in which case I will reasonably expect the other driver to stop (23-24). Incidentally, this case is what I was referring to earlier when I mentioned that communication can serve as a focal point even if it comes from a third party.

McAdams also describes several lab experiments that show the effectiveness of focal points in solving coordination games (50-56). I will not discuss those experiments in detail. The main points are: (i) Some focal points are stronger than others—McAdams gives several examples, but essentially, the more a particular focal point “stands out” from the other options, the more effective it will be at coordinating behavior. (ii) Focal points become less effective when we move from a pure coordination game to a mixed-motive game with competitive elements; however, the stronger the focal point is, the more likely it will enable cooperation even in mixed-motive games. There are two experiments that are relevant to my purposes, though. In

the first one, the experimenters told the participants how they did on a previous exam and declared the one who did the best the “leader.” While this made no difference to *pure* coordination games (**PC**), in mixed-motive games the participants cooperated far more often than the control, because they picked the solution that most benefited the “leader” (54). McMahon asserts that this is because the leader was perceived to be of high “status” in the experiment (*ibid*).

Another experiment shows that status disparities make a difference in coordination games even if they are not created by the experimenters. In this second experiment, when subjects (both male and female, presumably) were told they were matched against a woman, they were much more likely to play a “Hawk”-like strategy of picking the solution that most favored them. As a result, mixed-sex groups cooperated more than unisex groups, but similar to the “leader” experiment they cooperated more because they consistently picked the solution that favored the man (*ibid*). These two experiments suggest an unexpected role inequality may play in society. Inequality may *facilitate cooperation* by making the focal point whatever the person with higher status (in the cases I discussed, the “leader” or the man) says. Obviously, inequality is not the *only* way to facilitate cooperation—egalitarian focal points work just as well (and are far more moral)—but this may help explain why inequalities often persist for so long and are difficult to break.<sup>8</sup> (I will delve into this idea in much more detail in the next chapter.)

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8. One may object by arguing that, if inequality helps facilitate cooperation, then why is there a lack of cooperation in modern society despite its massive inequalities? I am not arguing that inequality—or any other focal point—totally *eliminates* conflict. But it is also important to recognize that society depends on a large amount of cooperation just to function at all. People have to (generally) obey laws; they have to (generally) make the products that other people want or need; they have to (generally) interact with each other without vicious arguments or fighting. None of this is possible without focal points, and inasmuch as status differences serve as focal points, they do enable people to cooperate (as would, of course, egalitarian focal points). I thank Carol Gould for this objection.

Before ending this section, I will make one final point. I began Section 2 above by describing the Prisoner's Dilemma and then contrasted it to the cooperation games I have discussed in the rest of the chapter. However, even the Prisoner's Dilemma may ultimately be a special case of a cooperation game. As is well-known, when a Prisoner's Dilemma is *iterated*—i.e., when you have to play it several times against the same person (or against different people where past behavior is known)—one of the best strategies (and certainly the best *simple* strategy) is not to always defect, but to play “tit-for-tat”: you start out cooperating, and then do whatever the other player did on the previous round (Axelrod and Hamilton 1981, 1393). This is because always defecting leads one's opponents to defect *in future rounds*, while cooperating encourages further cooperation. In other words, in an Iterated Prisoner's Dilemma, the goal is to *match strategies* with your opponent: cooperate if they cooperate, defect if they defect. This is the exact same format as the Assurance Game (AG). Therefore, even if the Prisoner's Dilemma is a useful frame to analyze certain social phenomena, as long as it is iterated (because the people remain the same or because one's past actions are known), we are actually discussing a mixed-motive cooperation game, not a purely competitive one. And this is ignoring the fact that in actual society, people are not purely self-interested; the more altruistic people are, the more incentive they have to cooperate, and the more important focal points become.

#### **Section 4: Coercion, Cooperation, and Conceptual Analysis**

I have finished my explication of Schelling and McAdams's theories of coordination games and focal points, but there are three very important points to make before ending this chapter. First, in subsection (a), I will conduct my own analysis of precisely what focal points are. Second, in subsection (b), I will go into more detail about how they relate to cooperation.

Finally, in subsection (c), I will discuss the extent to which people can *choose* focal points and the extent to which we can say people are (perhaps figuratively) “coerced” by them.

(a): *The nature of focal points.* While the theories of Schelling and McAdams are very useful, neither gives a detailed enough account about exactly what a focal point *is*. So far, I have simply called them a “conspicuous solution” or course of action that serves to coordinate people’s expectations, but that is still somewhat vague. Recall how I said earlier that focal points are (almost) inexplicable from a rational point of view: A expects B to do X, so to coordinate their actions, she does X as well. But the only reason B is doing X is because *he* expects *A* to do X, and A knows this. (The same is true vice-versa.) What, then, is this expectation based on? How do we get this “chain of expectations” off the ground? It is not enough merely to say a “focal point,” because that begs the question, just what is a focal point?

This is a more difficult question than it might appear. First, we should determine what a focal point is *not*. It clearly cannot be any “objective” feature of the given situation such as a physical object, because as I mentioned previously, focal points are *relative* to specific groups and cultures. Consider again the problem of having to decide when to meet someone (for lunch, say) without prior agreement as to the time. In contemporary American culture, 12:00 noon is the “obvious” or “natural” time to meet up, at least for some people (if not most). However, this is not because of any objective feature of the time 12:00 noon; it is because of the *relation* between that time and contemporary American culture. In a different culture, a different time could be the “obvious” time to meet up. One could object that there is an objectively prominent feature to 12 noon, namely, the fact that the sun is directly overhead. But that fact too is only prominent relative to the group or culture in question. Moreover, even if humans across cultures think of 12

noon as a prominent time, that still does not make it an “objective” solution—in that case, it would be the focal point relative to human psychology. And this same logic applies *mutatis mutandis* to the other focal point examples I have covered in this chapter. Therefore, whatever a focal point is, it does not appear to be an “objective,” physical fact.

If focal points are not material features of the situation, but rather relative to particular groups and cultures (or to human psychology), then it might seem the only alternative is for them to be *mental objects*, i.e., ideas in people’s heads. However, that also cannot be true, because it mixes up the focal point with what the focal point *causes*. Since focal points converge people’s mutual expectations, which is the entire reason they facilitate cooperation, the focal point itself cannot be *those expectations*. Rather, the focal point is what makes people have those expectations in the first place. One could say the focal point is a type of shared belief, e.g., “the other person will (probably) do X.” But that belief, like the expectation it corresponds to, does not arise *ex nihilo* but is rather based on the fact that X is a prominent/obvious solution, i.e., a focal point, so it too cannot be the focal point itself.

Finally, one could claim that the focal point is the belief *that something is prominent*. Now, “X is prominent” is merely another way of saying “X is a focal point,” so what this view is really saying is that a focal point is the belief that it is a focal point. Call that view **(i)**. Note that **(i)** is different from the idea **(ii)** that X is a focal point *if and only if* people believe X to be a focal point. **(ii)** is a theory about *the fact that* something is a focal point, namely, **(ii)** says that something is a focal point if people believe it to be one. **(ii)** is not a theory about what a focal point *is*, it is a theory that attempts to explain what *makes* something a focal point. **(i)**, on the other hand, identifies the focal point *itself* with the belief that it is a focal point. The invalidity of

this view is clear when we consider the following. The referent of ‘it’ in **(i)** is the focal point. But **(i)** *identifies* “the focal point” with “the belief that it [the focal point] is a focal point.” So if we replace ‘it’ with its referent, we get “a focal point is the belief that ‘the belief that the focal point is a focal point’ is a focal point.” We can then replace “the focal point” with “the belief that the focal point is a focal point” once more, and so on in an infinite regress.

An analogy may help explain the above argument. A chair, and the belief that it is a chair, are clearly two separate things: the former is a chair and the latter is a belief. We can make this distinction not just for “objective” physical objects like chairs, but also for “subjective” mental states, such as taste. Ice cream tasting good to P is different from P’s *belief* that ice cream tastes good; rather, P’s belief is *caused by* the taste sensation. The same is true for focal points. X being a focal point is a *different fact* from someone believing it to be a focal point. Therefore, it does not appear that focal points are beliefs that something is prominent either. To sum up, then, while focal points are not physical objects, they do not appear to be mental objects either.

At this point, the reader may object: If focal points are not physical and are not mental, then what are they? Platonic forms? A full exploration of this topic would require an essay of its own, so I cannot do that here. For the purposes of the present essay, I think it is enough to say the following. I would like to suggest that focal points are not an *object* at all, but are rather a *process*. The process goes like this: People face a coordination problem. A certain solution to that problem seems “prominent” or “obvious” to them, so they expect everyone else to follow it. Because this expectation is mutual, the group in fact implements the solution. As a result, that solution becomes even more prominent—if I want to know what other people will do, “what they are already doing” is typically an accurate guess, especially if everyone else reasons similarly.

The process then starts over again from the beginning. In other words, a focal point is neither an external object (the objective features of the solution), a mental state (the expectation that others will act on the solution), or a behavior (people physically implementing the solution). Rather, the focal point is the entire process whereby each of these leads to the next one in the causal chain and then loops back to the beginning. This view solves the issues with the preceding ones, because the process is *related* to each link in the chain but remains distinct from each of them as well. There is obviously much more to say about this topic, and I do not claim to have given a persuasive argument for this account. To ground the claims I make in the remainder of the present essay, it is enough merely to emphasize that *whatever* focal points are specifically, they are neither the physical solution itself nor the ideas people have about that solution.

(b): *Focal points and cooperation.* Recall that in Section 1, I briefly considered the objection that game theory is too individualistic in its assumptions. So far in this chapter, I have assumed, alongside game theory, that people are essentially self-interested monads who only seek to fulfill their self-interest. Why should this be relevant to the real world, where people are not totally rational, are often altruistic, and are deeply interconnected with other people? In Section 1, my response was that coordination games are helpful not because they tell us *why* people cooperate, but because they tell us *how* people cooperate. I would like to expand on that response here.

What does it mean for people to cooperate? At a minimum, it seems that it involves people working together in order to *accomplish the same task*. This does not necessarily mean they all must engage in the same action; as we saw in the “cars meeting at an intersection” example, often cooperation requires that people do *different* things. Rather, it means that all

persons involved must act together such that each action positively contributes to the *same* overall goal. In the cars at an intersection case, that goal is “both cars pass through,” while in the riotous mob case, that goal is “meet up at the same place at the same time.” Goals are many and varied, and in order to cooperate people certainly must share the same goal. But that is not where the challenge ends. An additional major obstacle to cooperation is that, even if people share the same goal, that does not mean they all agree on the best way to *accomplish* that goal. It is this challenge, for people to converge around a single *means* to accomplish their shared *end*, that coordination games illuminate.<sup>9</sup>

We can see this in all the examples I have discussed so far. In the “pure coordination” cases, such as the husband and wife getting lost in a department store, both persons share the same goal—find each other—but need to converge on the *same method* of finding each other (e.g., going to the Lost and Found). It is a pure coordination case because (we assume) neither person particularly cares *how* they find each other, so (as I detailed previously) the challenge is merely finding a way to converge their expectations. The “mixed-motive” cases add an element of conflict in that each means to the end benefits one party over another. For example, when cars meet at an intersection, they both want one car to pass and then the other, but whichever car goes first gains a slight advantage (since they will get to their destination a little faster). This might

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9. This is also the main difference between focal points and Carol Gould’s concept of “common activities.” Gould defines a common activity “as activity in which a number of individuals join together to effect a given end” (Gould 1988, 78), i.e. a common activity is one where people are working with one another to accomplish the same goal. So when we apply my argument in this subsection, we can say that focal points explain *how* people who are engaged in a common activity are able to converge on the same *method* to achieve their shared end. Recall my argument in the Introduction, that Gould’s view does not rebut the charge that the power of managers within economic common activities is fundamentally different from the power of governments within political common activities. As we will see in Chapter 4, introducing focal points enables us to answer that charge.

make it more difficult for people to come to a consensus about which solution to choose, but the basic challenge remains: we have the same goal, but we still have to decide the best way to *achieve* that goal.

Note that nowhere in the above did I mention *self-interest*. In my view, the focus on individuals maximizing their rational self-interest is not an inherent aspect of coordination games, but merely a way to clearly explain their concepts (and also, perhaps, an artifact of their arising out of game theory). All the assumption does is explain *why* people share the same goal: they all want the same thing because it is in their self-interest to achieve the collective goal. But we can drop that assumption without losing the core insights of the study of coordination games. At least for my arguments in this essay, it is irrelevant *why* people share the same goal. I can remain neutral on the question of to what extent people are motivated by egoism or altruism and to what extent we are separate individuals or members of a larger community. I am not focusing on *why* we come to have collective goals. I am assuming we have collective goals, and asking: how can we accomplish them? Coordination games provide an answer, albeit a very broad answer. Still, as I will argue in the next chapter, it is an answer that helps us understand power dynamics in the economy and in the polity.

*(c): Do people choose their focal points?* I said above that we need to “decide” how to achieve our common goals, but “decide” is actually a misleading word in this context. In truth, people do not have to consciously “decide” on a particular focal point. Rather, focal points are *already there*, and people follow them not out of choice, but because they *have to*, at least, if they want to cooperate at all. This is because, again, sharing the same goal is meaningless unless we also coordinate on the same method for achieving that goal. If a certain method is conspicuous,

obvious, or “natural”—i.e., is a focal point—then I will expect everyone else to implement it. Due to that expectation, if I want to accomplish our shared goal, I must implement that method as well. My personal opinions are irrelevant; indeed, *nobody's* personal opinions are relevant. Focal points do not work because people like them. They work because people *expect* everyone else to follow them, and so the only way to accomplish our shared goal is for *me* to follow it as well. And of course, when I follow the focal point, that only confirms everyone else's expectations that people will follow it, strengthening the focal point further. Personal opinions about which solution is best are practically relevant if, *and only if*, they cause the focal point to change, e.g., maybe enough people start saying “we should do this instead” such that the alternate solution becomes the focal point (more on this in a bit). If that does not happen, though, it is entirely possible for people to follow a focal point that a majority of them (or even all of them) do not agree with.

Another way to put this is that focal points are, *in a sense*, “coercive.”<sup>10</sup> The classic case of coercion is a mugger pointing a gun at their victim and demanding, “Your money or your life.” Theoretically, the victim could choose not to give the mugger their money. Practically speaking, though, they effectively “have no choice”: (almost) nobody is willing to risk their lives to avoid losing however much money they have on them. In other words, the mugger is coercive because, while they may be offering a “choice,” it is not a true choice because one option (risking one's life) is so obviously ludicrous that it is not a “real” option. Focal points function similarly, though they lack the conscious intent possessed by a mugger. In order to work, focal points have to be unique, because otherwise people would not be able to coordinate around the same method. But that means the choice is not *which* focal point to follow, but rather, whether or

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10. I will make this point in more detail in Chapter 5, Section 4.

not to follow a focal point *at all*. If I expect everyone else to take a certain course of action, I do not get to individually decide on a different one that I personally prefer, because then I would be on my own; in order to cooperate, I have to follow the focal point. The alternative to following a focal point, then, is not a different focal point but rather cooperation breaking down completely. This outcome is less fatal than getting shot by a mugger (sometimes, at least), but especially in the cases that concern this essay, it is still such a disastrous outcome for everyone involved that it is not truly an option. This is why personal opinion *per se* is irrelevant: it does not matter if I like the focal point or not, it only matters if I prefer the focal point to a *complete breakdown* of cooperation, and most of the time—regardless of the focal point—I will. To be clear, I am not arguing that focal points are *literally* coercive, as literal coercion may require conscious intention, which focal points obviously lack. All I am saying is that following a focal point is not really a matter of choice to those who have to follow it, so in that sense we can call focal points “coercive” by analogy.

One might object in the following way. Earlier in this chapter, I argued that communication can facilitate cooperation inasmuch as it can create a focal point. That suggests that it is *possible*, at least, for people to freely consent to a particular focal point: all they have to do is discuss their possible options, and whichever option they end up agreeing to (or, perhaps, voting on) becomes their focal point. There are two points to make here. First, even if people can choose *some* of their focal points, the focal points I am concerned with in this essay, specifically those designating certain individuals as “managers” who get to order their “employees” or “governments” that can order their “citizens,” are not consented to. A full defense of that statement will have to wait until Chapter 4, though. For now, it is enough to say that, at the very

least, a *great number* of focal points are not chosen or decided upon, but are rather merely followed because the alternative is no cooperation at all.

Second, more fundamentally, there may be non-chosen focal points that lie behind even the focal points that it appears people consent to. Specifically, if we are to collectively decide which focal point to follow, we first need to determine *which processes* we will use to make our decision: how long each person gets to speak, whether to require a majority vote or a higher threshold, etc. But if we are to collectively decide those procedures, we then need to determine the rules for *that* decision, and so forth.<sup>11</sup> At some point, there needs to be a set of rules—i.e., ways to accomplish our collective goal (which is coming to a decision here), that is, *focal points*—that we did not collectively decide on or consent to, but that we rather just follow. These non-chosen “basic” focal points that form the foundation for our decision procedures are therefore “coercive” in the way I described earlier.

I will consider two possible objections to this argument.<sup>12</sup> First, one may argue that these procedural rules could be *retroactively* endorsed; i.e., we could use our procedural assumptions to consciously and freely agree on those procedural assumptions. The problem with this objection is that, even if we are voting on which decision procedures to follow, that vote must itself be done via some sort of decision procedure. We cannot use this procedure to legitimate *itself*, even if people end up voting for it, as its existence as a focal point limits the range of options people can reasonably consider (as long as they value cooperation over non-cooperation). In other words, we cannot say that a decision procedure DP is consented to just because people used it to vote for itself, since if they had started with a different decision

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11. This regress is similar to the “constitutional circle” paradox/infinite regress described by Carol Gould. See Gould 2004, 39-41.

12. I thank Carol Gould for these objections.

procedure, DP2, the result may have been different. Where you start often has a huge impact on where you end up.

Second, one may object that even if a certain decision procedure was not decided or voted upon, that does not make it “coercive,” literally or figuratively. Just because something is assumed or taken for granted does not necessarily mean it is “coercive” in my sense; it could have just arisen out of ordinary interaction, human psychology, or the like. However, my argument is not that people are being coerced by their *assumptions*. Again, focal points are not mental objects or ideas in people’s heads. Rather, they are the *source* of the mutual expectations that allow people to solve coordination problems. My claim, then, is that people are (at least figuratively) coerced because, if they want to cooperate with the rest of the group, they have *no choice* but to follow the given decision procedure, regardless of their personal beliefs or preferences. Indeed, it is possible for *nobody* in the group to privately agree with the decision procedure, but to still follow it because they *expect* everyone else to. It is in that sense, and that sense only, that I claim they are “coerced.” At the very least, it is clear that they are not freely choosing their decision procedure. So to sum up, focal points are often—perhaps most of the time—not chosen or consented to, and that is especially true for the focal points that are most relevant to this essay.

There is one more point I would like to make before ending this chapter. Above, I argued that focal points are often (at least figuratively) coercive because, while people do not choose many or most of the focal points they follow, they still effectively have to follow them, because as I asserted in subsection (b), following a focal point is the only way to cooperate with others. This suggests that focal points have a kind of *power*. Recall that all I mean by ‘power’ is the fact

that people (generally) follow the orders of those with power. Focal points cannot have literal power in this sense. If they are a process that connects physical facts, expectations, and behavior in a causal chain, like I argued in subsection (a), then they do not give *orders* at all. Nevertheless, just as focal points are (perhaps figuratively) coercive, it appears true that focal points possess a kind of (perhaps figurative) power as well, since people do consistently follow them. As such, it is possible that they are related to more familiar types of power, such as that of managers over their employees or that of political rulers over their citizens. I will make a positive case for that connection in the next chapter.

### Chapter 4: Power as a Focal Point for Cooperation

In Chapter 1, I argued that the state’s power does not derive from violent force. In Chapter 2, I outlined Coase’s theory of why firms (“islands of conscious power”) exist in a capitalist economy, which is supposedly governed by the impersonal price mechanism. I then demonstrated that his theory of why a firm arises in a free market economy bears surprising similarities to Locke’s theory of how a government arises from the state of nature, suggesting that there may be close similarities between state and corporate power. This chapter makes good on that suggestion, utilizing the concepts of coordination games and focal points that I explained in Chapter 3. In this chapter, I outline a more adequate theory of state power than the common theory I criticized in Chapter 1 and proceed to show that my view dovetails closely with Coase and Williamson’s theory of the firm. This leads to the overall conclusion of my essay: Since the *purpose* of state and corporate power is the same—to enable many different people to cooperate by serving as a focal point for cooperation—then the *moral legitimacy* of each must also be the same, and therefore if political power is only justified when it is subject to the will of its citizenry, economic power is only justified when it is subject to the will of its employees.

My theory starts in Section 1, where I show that another way to understand the Coase/Williamson theory of the firm is that they argue that *managers* serve as focal points for the employees. In Section 2, I assert that the function of the government (and the state)<sup>1</sup> is *also* to be a focal point, and in Section 3, I show how this view is superior to other major views of state

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1. As mentioned in Chapter 1, a distinction is often drawn between the “government” as the persons holding political power and the “state” as an institution that persists as governments come and go. It might seem odd, then, to compare the state (an institution) to managers (who are persons). To be specific, the proper analogy is between the state and the *capitalist economic system* as a whole, particularly the fact that a capitalist economy is divided into hierarchical firms where employees obey employers. This does not change the tenor of my overall argument, though, so for the most part I will ignore this distinction in the rest of the chapter.

power. Finally, I conclude in Section 4 with the main argument of my entire essay: since corporate and state authority have the same function, whatever structures are illegitimate for the latter (such as dictatorship) are also illegitimate for the former.

### **Section 1: Management as a Focal Point**

Before beginning this section, it will be helpful to briefly summarize the last chapter. A coordination game is one where it is in the best interest of *all players* to cooperate, either by choosing the same option (such as in an Assurance Game) or different options (such as in a Hawk/Dove game). Coordination games are best solved if one of the options is somehow obvious or “stands out” from the others; in this case, we call it a “focal point.” Focal points enable people to cooperate on a single solution because everyone *expects* everyone else to follow the focal point, which makes it in their interest to follow it as well, because otherwise cooperation is impossible. A mixed-motive game is a cooperation game where the solutions give *unequal payoffs* to different players. If one person is seen as the “leader,” either because of an explicit title or through social inequalities such as gender, then we have the following focal point: whichever solution most favors the “leader” (which is also presumably the one the “leader” prefers, though McAdams was not clear on this). Finally, I argued that focal points explain *how* people cooperate, not why they do so—regardless of the reason people want to cooperate, as long as they *do* possess that desire, the only way to achieve it is by following the focal point. Thus, many if not most focal points are not really “chosen” or consented to by those who follow them, since (assuming they prefer cooperation to noncooperation) people effectively have no choice but to obey the dominant focal points.

Next, recall the “problem” Coase and Williamson were trying to solve in Chapter 2. It is typically asserted that a free market capitalist economy is governed by the impersonal price mechanism. This means that people are supposed to determine what to make and who to sell it to, not under the commands of some central authority, but purely on the basis of what will make them the most money. In point of fact, though, many people *are* subject to authority in a capitalist economy, because in a firm, the price mechanism is suspended; workers in a firm do not act on the basis of what will make them the most money, but instead, they do what their boss orders them to do. As Coase points out, quoting D. H. Robertson, firms are “islands of conscious power in this ocean of unconscious co-operation like lumps of butter coagulating in a pail of buttermilk” (Coase 1937, 388, quoting Robertson 1923, 85). The use of the word ‘power’ is suggestive. Another way of formulating Coase’s problem (though this is perhaps not how Coase himself would put it) is: why do managers have *power* in firms, when neoliberal economics insists that it is most efficient for the price mechanism to be in charge?

The first thing to note is that we are very much dealing with questions of cooperation here. As I argued in Chapter 2, the price mechanism can be thought of as a non-conscious way to coordinate people’s economic actions. In game theoretic terms, the price mechanism serves as a *focal point* in the following way: people cooperate in the economic realm because the “obvious” or “natural” thing to do is “whatever makes me the most money.” This is a somewhat idiosyncratic way to view the price mechanism, I recognize. Defenders of free-market capitalism typically assume that humans are naturally self-interested,<sup>2</sup> and if we assume that, the price mechanism is just the result of people following their natures to maximize personal profit. This

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2. For example, W. Stanley Jevons, one of the hugely influential “marginal economists,” takes as a starting point that “every person will choose the greater apparent good” (Jevons 1871, 24), which due to his utilitarian assumptions (31) presumably means pleasure or avoiding pain.

essay is not concerned with “human nature,” though, so I will not address that topic. Rather, I will argue that *regardless* of whether humans are or are not naturally self-interested, the main reason the price mechanism works is that *some* focal point or other is required for the economy to function, and the price mechanism is merely one such possible focal point. I will now defend that statement in detail.

As I argued in Chapter 2, for an economy to function people cannot act totally independently from each other. We need some way to ensure that products are not too over- or under-produced. I will start with a very simple example and expand on it later. Say that A and B both want to obtain one shirt and one chair. Let us assume that they would prefer for one of them to make two shirts and the other two chairs, rather than both making one of each.<sup>3</sup> This is a simple coordination game: they need to find some way to decide who will make the shirts and who the chairs. Communication is one way to resolve this (recall that communication works precisely because it serves as a focal point), but let us assume they cannot communicate—a reasonable assumption, as most people in a modern economy do not even know, much less talk to, the vast majority of people they economically depend on. There are two major options for A and B: they can both follow the same *rule*, or they can both follow the same *person*. I will explain each in turn.

The price mechanism is an example of a “rule.” It might seem strange to call the price mechanism a rule, but it makes more sense if we drop the assumption that humans follow the price mechanism because we are naturally self-interested. Without that assumption, “why do people (mostly) act in their economic self-interest?” becomes a real question, and an important

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3. In a full economy, the reason this happens is due to the efficiency advantages of the division of labor.

one, because the price mechanism *only works* if most people really are looking mainly to make money. I will use my simple example to explain. Let us assume that A can make shirts more quickly than chairs, and B can make chairs more quickly than shirts. On the other hand, A personally *enjoys* making chairs more, and B enjoys making shirts more. Without communication, how can they decide who makes what? One way is through a *cultural norm*.<sup>4</sup> For example, say there is a norm that work should be done quickly so that people have time for other things (community activities, say). Even if A personally disagrees with this norm and would rather enjoy her work, she will reasonably *expect* B to follow it and make shirts—and therefore, in order to coordinate A must make the chairs (and vice-versa for B). On the other hand, if the cultural norm is that people should work on whatever is most personally enjoyable, A will expect B to make the chairs and thus she will make the shirts. In other words, cultural norms serve as focal points because they are able to coordinate expectations: I can always reasonably expect my group to follow whatever our cultural norms are. Strictly in terms of this coordinating function, it does not actually matter what the norm is; what matters is that both A and B *have the same one*.<sup>5</sup> As long as the norm is shared, a certain solution to the coordination problem (namely, the one in line with the norm) becomes “obvious,” and therefore becomes a focal point.

To expand from my simple example to the overall economy, the price mechanism works if and only if it is enshrined as a cultural norm, so everyone *expects* everyone else to do whatever maximizes their individual (monetary) self-interest. As discussed in Chapter 2, the price

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4. In this essay, when I use the phrases “cultural norm” or “social norm,” I am referring to the informal, largely unstated rules and procedures, relative to a given community, that people in that community tend to follow, especially in public. Some examples of social norms in contemporary America (or at least in much of it) include facing forward while in an elevator, closing one’s mouth while eating, and not engaging in “public displays of affection.”

5. Obviously, one cultural norm may be superior in other ways, e.g. in maximizing total utility.

mechanism can coordinate production because (theoretically) if too much of one particular product gets made, its price will drop, so people will stop making it—and on the other hand, if demand for a product outstrips its supply, its price will rise so people will make more of it. But this only works if people *actually do* seek to maximize their income, if they buy low and sell high. Whether this behavior is “natural” or the product of social conditioning is immaterial. My point here is only that the price mechanism is effectively a rule or cultural norm that works to coordinate economic behavior as long as the vast majority of people follow it. Therefore, it is a focal point.

The other major way to coordinate economic action is having a *person* be the focal point.

Recall from Chapter 2:

“Outside the firm, price movements dictate production, which is co-ordinated through a series of exchange transactions on the market. Within a firm, these market transactions are eliminated and in place of the complicated market structure with exchange transactions is substituted the entrepreneur-co-ordinator, who directs production.” (Coase 1937, 388)

Coase’s argument is that the manager (or “entrepreneur-co-ordinator”) *replaces* the price mechanism within the firm; management fulfills the same function inside the firm as the price mechanism does outside, namely, coordinate production. This is a direct parallel to the experiments McAdams talks about that I referred to in the previous chapter, where designating one person as the “leader” creates a focal point: *whatever the leader says*. This case is a bit different from McAdams’s experiments since management is not (usually) directly involved in production, but the structure is the same. Inside a firm, workers have to coordinate with each other to make their products (e.g. one has to make car wheels, another the chassis, etc). How do they coordinate? Simple: they do *whatever the manager says*. Again, purely in terms of its

coordinating function, it does not actually matter who the manager is, how they are selected, or what they say. The manager does not even have to remain the same; theoretically, there could be a different one every day, or even every hour. All that is needed for the workers to (mostly) cooperate is for everyone to (mostly) obey the same one at any given time.<sup>6</sup>

Of course, there is a downside: because the manager gets to set the focal point, they can choose the one that is most advantageous to themselves, and they often do so. More to the point, their position as the focal point gives them a great deal of *power*. I will explain. In Chapter 1, I said that in this essay, the power of the state consists merely in the fact that citizens obey governmental orders. Similarly, managers' power consists in the fact that workers obey their orders. What my analysis suggests is that this power is not based in consent or contract. Rather, employees obey orders because the manager is the *focal point* and, just like any other focal point, workers have no choice but to follow it in order to cooperate at all. But a complete breakdown of cooperation would be disastrous, not because the employees need the manager but because they need *each other*: without cooperation, they would be unable to produce anything (at least if it requires any sort of division of labor) and thus could not make any money—not to mention how much society as a whole would suffer. Therefore, unless the employees get nothing or almost nothing, even a focal point weighted heavily in the manager's favor is better *even for the employees* than no focal point at all.<sup>7</sup>

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6. It is obviously possible to differentiate between managers based on other standards, e.g. maximizing utility, making the most number of products, egalitarian concerns, etc. Right now I am making a descriptive point, not a normative one.

7. One could ask, if "rule" focal points are possible and work perfectly well to facilitate cooperation, why have a manager at all? Descriptively speaking, recall that focal points are always *unique* (or else they do not work), so if the manager focal point already exists, I have no choice but to follow it in order to cooperate. Normatively, I will discuss reasons why a "person" focal point might become necessary in certain situations in Section 2.

Three points should be clarified here. First, I am not saying that workers consciously set out to look for a focal point; most people do not know what focal points are, after all. Most people just want to make money to support themselves and their family. Focal points work because *in order to* make money, workers have to cooperate with each other in the production process, and in order to do *that* they need a focal point. Managers are just the focal points on offer, and for the reasons I argued in the previous chapter, workers effectively have no choice but to (mostly) obey them. Second, I am not saying that the price mechanism and management are the only two *possible* economic focal points. There are others as well, including government-run central planning, or alternately, workers agreeing to certain rules ahead of time between themselves and following those without one person being in charge.<sup>8</sup> At the moment I am not concerned with the merits and demerits of each alternative. My point in this section is merely that *some* sort of focal point is necessary for people to cooperate. Managers have power over employees because, in a capitalist economy, they are the most prominent focal point on offer.

Third, I should be more precise about what the “manager focal point” is. There are actually two interconnected phenomena at play here. The first phenomenon is that, as in the “leader” experiments I talked about in Chapter 3, managers (largely) have the ability to *determine* the focal points for the workers; namely, whatever the manager says or orders becomes the focal point. So technically the focal point is not the managers *themselves*, but rather, the managers *control* what the focal points are (to an extent). But this ability or power that managers have does not arise *ex nihilo*. It is based on the second phenomenon: there is a broader societal fact that managers’ statements *are indeed* “prominent” or “obvious” enough to serve as

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8. Though as we will see in the following section, there are sometimes issues with such a “direct democratic” focal point that a “leader” focal point solves.

focal points in the first place. This social fact is itself a focal point. Recall that a focal point is merely a course of action that is conspicuous enough (at least within a particular culture) that everyone expects everyone else to follow it. Here, the course of action is “workers obey their managers.” The historical process that caused this focal point to exist, while interesting, is not relevant to me—that is a matter for historians. Regardless of how it came to be, now that this *is* the prominent or conspicuous solution to economic coordination, the orders of the managers become prominent focal points as well.<sup>9</sup> Incidentally, this is my answer for the question, discussed in Chapter 2, of why capital almost always “hires” labor instead of the reverse. Because there is a focal point that makes capital hiring labor the prominent solution, laborers expect to be hired (and they expect other laborers to largely accept this) while capitalists expect *not* to be hired (and expect other capitalists to fight attempts to hire them).<sup>10</sup>

One might object that managers are prominent not due to a larger societal focal point, but because workers freely *consented* to obey their orders. But while employees may choose which particular person to work for under capitalism, they do not choose *the economic system itself*—no one does. They do not choose the fact that almost all firms are top-down hierarchies; they do not choose the fact that all dominant representations of firms in media are top-down hierarchies; they do not choose the fact that the paradigm conception of a “company” in capitalist societies is that of a top-down hierarchy. For all these reasons, it is unlikely for workers to specifically seek out a

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9. Compare to the experiments I discussed in Chapter 3. When the experimenters selected someone as the “leader,” they made that person’s preferred solution conspicuous (i.e., made it the focal point). But they were only able to do this because the experimenters *themselves* were prominent, i.e., “whatever the experimenters say” was a focal point. On the other hand, in the mixed-sex experiments, the man’s preferred solution was conspicuous due to our culture’s patriarchal focal points which serve to make a man’s pronouncements more prominent than a woman’s (on average).

10. More on this dynamic in Section 3, subsection b, as well as Chapter 5, Section 4.

non-hierarchical firm, and even if they do, they will have far fewer options than if they were willing to work for a hierarchical one. More to the point, they cannot reasonably *expect* other workers to be committed to a different corporate model, so they cannot expect cooperation if they were to be so committed themselves. (More on this in Section 3, subsection b.) All of these are indications that we are not dealing with people freely choosing among available options, but rather that a focal point is at work here. After all, whenever people are cooperating, there must be a focal point facilitating that cooperation. Since people cooperate in a capitalist economy *by means of* working in top-down hierarchical firms, that is as compelling evidence as we can ever get that “workers obey the orders of their managers” is a focal point under capitalism.

My argument in the above paragraph provides a different way to express the theory I am proposing in this section. Extensive cooperation is necessary for an economy (especially a modern economy) to function at all. People have to work together to ensure that products are not over- or under-produced, and that commodities are delivered to the people who need and/or desire them. The key thing to note is that *everyone* (or almost everyone) in a society has a reason to keep this economic cooperation going, whether they are selfish or altruistic. There are “winners” and “losers” in most economies, of course. Some people are wealthy and others are poor; some give orders while others obey. But if economic cooperation broke down completely—if we did not ensure that some grow food, others make houses, still others manufacture tools, and all the rest—the result would be a great deal of misery and death for (almost) everyone. This means that unless one truly has nothing to lose, they will almost always have a convincing reason to maintain economic cooperation. And as I argued in the previous chapter, the only way to do this is to follow the focal points—which, in the case of capitalism, means following the

focal point that gives managers power. Of course, people might prefer that a different set of focal points held sway. It is even possible that a majority of people think that a different set of focal points would be better. But as long as they *expect* (most) other people to follow a focal point, they effectively have no choice but to obey the focal point themselves, as otherwise they would be unable to cooperate,

I will address an objection inspired by Armen A. Alchian and Harold Demsetz. Alchian and Demsetz argue:

“It is common to see the firm characterized by the power to settle issues by fiat, by authority, or by disciplinary action superior to that available in the conventional market. This is delusion. The firm does not own all its inputs. It has no power of fiat, no authority, no disciplinary action any different in the slightest degree from ordinary market contracting between any two people. I can “punish” you only by withholding future business or by seeking redress in the courts for any failure to honor our exchange agreement. That is exactly all that any employer can do. He [sic] can fire or sue, just as I can fire my grocer by stopping purchases from him [sic] or sue him for delivering faulty products. . . . To speak of managing, directing, or assigning workers to various tasks is a deceptive way of noting that the employer continually is involved in renegotiation of contracts on terms that must be acceptable to both parties. Telling an employee to type this letter rather than to file that document is like my telling a grocer to sell me this brand of tuna rather than that brand of bread.” (Alchian and Demsetz 1972, 777)

To summarize, their argument is that an employer’s power over their employees is not *any* different from, say, my power over my grocer. In both cases, I am able to control the other person’s actions by threatening to not make any contracts with them, defining “contracts” broadly to include any economic agreements between two persons (so it includes both my buying something from the grocer and an employer agreeing to pay an employee wages in exchange for labor). To be clear, they are not denying that managers give orders, even very specific orders, to their workers; they are saying that these orders result from a *contract* the manager makes with the workers, a contract that does not differ in kind from me agreeing to buy a product from a

grocer.<sup>11</sup> If true, this would seem to go against my contention that in a company, managers are “leaders” and as such operate as focal points; indeed, Alchian and Demsetz appear to be arguing that managers do not really have any power at all.

Is their argument plausible? First, note the radical nature of Alchian and Demsetz’s view. They are not merely saying that the firm’s power is *similar* to that of a buyer over a seller, or even that the power comes from the same source; indeed, I myself am arguing both those things, since each is an example of obeying focal points. Alchian and Demsetz are arguing that the power is *exactly the same*. Second, we need to make a distinction between the purpose or function of a certain institution and how that institution *appears* to the individuals inside the institution. My argument thus far has focused exclusively on the former. The Alchian and Demsetz argument is less clear. Being an employee certainly *appears* much different to the individual in question than being a seller, so it does not seem that they are arguing from the individual perspective. But they also do not appear to be talking about the purpose or role these institutions play in wider society in the selection I quoted above. They go on to argue that the purpose of a firm is to provide a centralized “hub” that is able to monitor a team of workers to determine how much each individual contributed to the overall process and reward them accordingly, thus reducing shirking (794), but this view is logically distinct from their argument I quoted above.<sup>12</sup> It is perhaps most accurate to say that Alchian and Demsetz are arguing that the

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11. I thank Linda Alcott for encouraging this clarification.

12. In Chapter 2, this theory served as one piece of the larger Blair and Stout theory of the firm I discussed in Section 2 of that chapter. As such, I believe their theory is too limited. After all, if the point of firms is only to eliminate shirking, it is not clear why they developed the *managerial* power to *order* the employees to commit certain actions; Alchian and Demsetz’s explanation is that employers must be able to alter contracts to discipline employees (782), but this does not follow as there are many other potential ways to discipline shirkers.

*nature* of the firm is not any different from the nature of a market, regardless of their respective functions in wider society.

From this, we can see that their argument's truth value is deceptively difficult to evaluate. To be specific, whether a firm and a market are "the same" or not depends on your standards of evaluation. Is firing an employee "the same as" boycotting a grocer? They are the same inasmuch as they both involve one party refusing to make a deal/contract with another; they are different in that a single boycott is not likely to affect a grocer much, while getting fired is a major problem for most employees. This does not necessarily disprove Alchian and Demsetz's argument, since every comparison is imperfect. What matters is whether the two things we are comparing are the same according to the standard that is *important in* or *relevant to* the given context. The controversy is over which standard is the right one to use in the particular situation under discussion.

Unfortunately for Alchian and Demsetz, their standard of analyzing a relationship strictly in terms of whether or not it involves a deal/contract is myopic in that it ignores key features of a capitalist economy. As we saw in the previous chapter, when people have an interest in cooperating (which they certainly do in the economic realm), they are heavily incentivized to follow the focal point. Even if they theoretically have the option to disobey the focal point, in practice they cannot because disobeying the focal point would lead to the breakdown of cooperation, which would destroy any opportunity they have to accomplish their collective goal (namely cooperating to make products, so as to make money, as I talked about earlier in this section). Therefore, *contra* Alchian and Demsetz, the important part here is not that someone is threatening to not make contracts, but rather is what the focal point is. And the focal points in the

employer/employee case and the customer/grocer case are extremely different; most importantly, the focal point gives the employer *direct control* over the employee's actions but does not give the customer direct control over the grocer's actions. Indeed, it cannot: there are many customers, so if they had the power to give orders the grocer would likely receive contradictory commands. On the other hand, there is almost always only one manager directly above an employee who gives them commands.<sup>13</sup> To be sure, theoretically, the employee freely chose to sign a contract that lets the employer order them around. In practice, though, the reason the employee signed the contract (as opposed to any of the other ways to organize production) is because "the employer gets to order around the employees" is the focal point.<sup>14</sup> Insisting that it is really just like telling one's grocer to sell them tuna is missing the point completely.

## **Section 2: The Source of Governmental Power**

*(a) Introduction:* Almost in passing, Schelling suggests that his theory of coordination games and focal points can explain the origin of social power:

"The coordination game probably lies behind the stability of institutions and traditions and perhaps the phenomenon of leadership itself. Among the possible sets of rules that might govern a conflict, tradition points to the particular set that everyone can expect everyone else to be conscious of as a conspicuous candidate for adoption; it wins by default over those that cannot readily be identified by tacit consent." (Schelling 1980, 91)

In this section, I will argue that Schelling's suggestion is indeed correct. I will not begin with Schelling, though. I will begin, rather, with the first political philosopher of the Western tradition.

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13. There are, of course, usually many managers in a modern firm, but as long as they operate by a chain of command (i.e., one group of managers is ordered around by a single, more senior manager, etc), the orders will not be contradictory (unless the one person in charge gives contradictory orders, but this is relatively rare).

14. I will explore this topic again in Chapter 5, Section 4.

In the *Republic* Plato says, “I think a city comes to be because none of us is self-sufficient, but we all need many things” (369b).<sup>15</sup> Thus, one person has “to be a farmer, another a builder, and another a weaver” (369d). Each person focusing on one activity is better than each person doing everything (369e-370a). There are two notable aspects to these passages. First, Plato does not talk about force or violence at all; to explain society he appeals immediately to the fact that we need and depend on each other and, therefore, reap huge benefits from the division of labor. Second, Plato completes his basic city (371e) without mentioning *rulers* at all. He does eventually discuss professional soldiers, but again does not mention rulers (373e-374e). It is only much later that Plato brings up the idea of a ruler. This is the context:

“Then the person who achieves the finest blend of music and physical training and impresses it on his soul in the most measured way is the one we’d most correctly call completely harmonious and trained in music . . . Then, won’t we always need this sort of person as an overseer in our city, Glaucon, if indeed its constitution is to be preserved?” (412a)

Plato never again gives a reason for why a ruler is necessary. It is almost as if the ruler, presumably the most important part of the city, is smuggled in through the back door. Equally important is the reason he *does* give: the purpose of a ruler is not to make laws or to punish wrongdoers, but to *preserve the constitution*. What does this mean, and why is it so important?

The answer is coordination and focal points (though obviously, Plato himself would not put it in those terms), although it will take some time to explain why. To start at the beginning: As Plato recognized millennia before Adam Smith, production is far more efficient with a division of labor; we are able to produce more things if each person focuses on their specialty. However, once labor is divided, each individual person is dependent upon a vast number of other people for the fulfillment of their needs and desires. One problem that results from this is

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15. All Plato references are to Plato 1992. In-text citations will be by Stephanus page number.

determining which products to make and whom to deliver them to—this leads to economic focal points, which I discussed in the previous section. But at least as important is the question of which “rules” we will live by and attaining some confidence that most other people in our community will follow those “rules.” While we call the former set of problems “economic” and the latter “political,” in fact they are the *same problem*: By what means can human behavior be organized such that it is (more or less) in sync with a vast number of strangers?<sup>16</sup>

(b) *Societal/Political Coordination Problems*: I have already discussed the economic aspect of this problem, so now I will focus on the social/political aspect. On a basic level, I need to be able to reasonably predict the consequences of my actions in order to accomplish my goals. When my goals are social—i.e., when they involve other people—that means I need to have at least *some* idea of how other people will react to my actions. If those people are strangers, this is extremely difficult. We need some way for strangers to cooperate with each other despite not knowing each other, because otherwise we would not be able to regularly predict their behavior and it would be impossible to accomplish even basic societal tasks such as driving. (Which side of the road? How fast can we go?) Additionally, if I do not have some guarantee against being mugged or murdered, I will not be willing to enter public spaces at all. This is precisely the problem Hobbes identified with *his* totally anarchic state of nature: if humans cannot cooperate with each other, life is indeed nasty, brutish, and short.

There are other societal problems that can only be solved through coordinating on a specific course of action. McAdams, consonant with his criticism of the common theory I quoted in Chapter 1, gives several. First, just like building a car efficiently requires the division of labor

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16. I am using the passive voice here in order to avoid the implication that any individual or group is *actively* or *consciously* organizing people’s behavior.

and subsequent coordination, there are many *community-wide* tasks that require coordination, such as “[b]uilding roads, fighting crime, regulating pollution, creating currency, waging war” (McAdams 2015, 61). Second, many ordinary disputes between people are actually mixed-motive coordination problems, specifically of the Hawk/Dove variety. I have already discussed traffic disputes—namely two cars meeting at an intersection, but there are many other times when people on the road need to coordinate with each other to avoid a crash, such as when cars merge (77).

It is not just traffic, either: “In many disputes, each shares an interest in avoiding unresolved conflict because, while each side prefers to get its way, each regards the worst outcome as occurring where neither side gives in and the conflict escalates” (82, italics removed). The most extreme kind of destructive conflict escalation is *violence*. People engage in many minor disputes throughout their lives, and if those disputes escalate into violence, they would be at risk of serious injury or worse<sup>17</sup>; not to mention that many or most people likely would rather not inflict serious violence upon another person. For these reasons, at least for minor disputes, *losing* the dispute and letting the other party have their way is usually preferable to risking violent escalation. But escalation need not rise to the level of physical violence to be costly. Even a heated shouting match may be less preferable to losing the dispute, as it could be embarrassing if done in public, and even if done in private it could be emotionally draining and might even rupture a friendship or business partnership (84). Speaking of business partnerships, there are many times in bargaining when both sides would rather have a “bad deal” than no deal at all, in which case the destructive escalation would be the breakdown of the bargaining process

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17. Even if one party is far physically superior to the other and so would almost certainly win a “fair fight,” they can never be sure the fight will be “fair.”

entirely (*ibid*). Of course, losing can be very costly in a *major* dispute, so there are cases where one or both parties would rather escalate than lose. Additionally, conflict sometimes escalates *against* the wishes of both parties, often when neither wants to seem “weak” by conceding (more on this in a bit). The question, then, is how can we settle these minor disputes without risking destructive escalation?

As McAdams says, all these examples are types of Hawk/Dove coordination games (83). Here is why. Suppose that A and B are involved in a minor dispute—A’s tree extends onto B’s property, each wants to use the same fishing spot that is only big enough for one of them (plus their friend group), or the like. Each of them would prefer to get their way (e.g. B wants A to cut down the tree, while A wants to leave it up). The problem is what happens when both *insist* on getting their way and refuse to back down. That is when they run the risk of the conflict escalating, perhaps even into violence, which for a minor dispute is a worse outcome *for both* than them not getting their way. This is precisely the format of a Hawk/Dove game (**HD**) or (**HD-M**). “Hawk” here would be insisting on getting one’s way, while “Dove” is deferring and letting the other person “win.” So A would prefer most of all to play Hawk while B plays Dove, but the worst outcome *for A* is if they both play Hawk (and vice-versa for B).

How do focal points help solve Hawk/Dove games? To answer this, we should first consider precisely why these conflicts often escalate in the first place. As I said in Chapter 3, absent a focal point, the way to “win” a Hawk/Dove game is to *convince* your opponent that you will play Hawk no matter what, which would then incentivize them to play Dove. Another way of putting this is: you need to convince your opponent that you *prefer* the Hawk/Hawk outcome *over* the losing one. For instance, in a minor dispute, someone “might take the first step toward a

fight—‘take a swing’ or brandish a weapon—to show that one is committed to playing Hawk” (*ibid*). The idea here is that if A can convince B that A will *definitely* insist on getting their way, even to the point of violence, B will let them because B would prefer not to fight. The problem is that I cannot be guaranteed you will back down. Someone threatened with violence may become angry or spiteful and act “irrationally (in the short term),” or more to the point, they may feel that the *reputational* cost of failing to fight is too high (*ibid*). Moreover, even if A tries to signal willingness to fight (i.e., play Hawk) through steps short of full-out violence, such as “[t]alking tough or shoving someone,” there is no way to ensure that B will be convinced of A’s seriousness, rather than just thinking A is bluffing (84). For these reasons, conflict can escalate even when neither party wants it to.

Now I can explain how focal points help resolve these disputes. The reason conflict carries a risk of escalation is because I can never be *sure* the other person will play Hawk, so I always have an incentive to insist on Hawk myself to get them to back down. But when a particular Hawk/Dove outcome is *salient*—let us suppose it is in A’s favor, so the focal point is “A plays Hawk while B plays Dove”—then I *can* reasonably expect the other person to play Hawk. When the “obvious” or “natural” solution is for A to win, B will likely expect A to play Hawk, thus heavily incentivizing them to play Dove. Crucially, though, even though B “loses,” their reputation will likely not take a significant hit. Why? One way of interpreting a “loss of face” (83) is that, if I start playing Dove when I get into a conflict, people will start *expecting* me to play Dove in the future (remember, precedent is a very strong focal point). Once this happens, I may get locked into a spiral, forced to continue playing Dove because I expect everyone to always play Hawk against me, each time reinforcing this focal point. On the other hand, if there

is an *external* focal point that makes my playing Dove salient, whether this be the law as McAdams argues, a third-party, or even a social norm, I have an “excuse” to withdraw, while still leaving open the expectation that I will play Hawk in the future if the focal point favors me. In sum, then, many if not most disputes that take place in society are types of coordination games, and we need focal points to ensure that those disputes do not destructively escalate.

One may object that my argument, which is also McAdams’s, focuses too much on petty conflicts. Surely, this objection goes, the main reason for government is not to resolve petty disputes but to protect us from theft and murder. To respond, first of all, I am not sure if this is actually true. Certainly most Americans, at least, interact with government power on the road (via traffic lights and signs) far more often than they do via violent crime. More importantly, though, dealing with crime is *also* a coordination problem. In order to avoid the absolute anarchy of the Hobbesian state of nature, there need to be common standards as to what constitutes a “crime.” Then the strength of the group can be brought down upon criminals, instead of leaving the matter up to individual vigilantes (I discussed the problems with vigilante justice in Chapter 2). However, the key here is not which *particular* standards dominate in the community, but that (most) everyone has *the same* standards; if half the group believes in one standard and half in another, there will be no consistent pattern of punishment and people will not know how to live together. This, of course, is a coordination problem (118). Like any other coordination problem, there need to be focal points regarding what constitutes a “crime” and how those crimes should be punished, or else cooperation on criminal matters will break down.

(c) *Norms and Laws as Focal Points*: I have established at this point that coordination problems are rampant in social life, so we need focal points to solve them—but what kind of

focal points? As in the previous section, the two main options we can see historically are rules and persons. By ‘rules,’ I mean impersonal standards that (at least theoretically) apply to everyone. They are similar to rules in a game: just like everyone who plays chess has to obey certain impersonal abstract rules, those rules serving as a *focal point* that enables them to play chess at all, everyone who lives in society is incentivized to obey that society’s rules *precisely because* everyone else does (and/or they expect everyone else to). As the price mechanism serves as a “rule” focal point in the economic realm, *cultural norms* and *laws* serve as such in the social and political realm. I will begin with the former. A good example of how cultural norms work as focal points is the norm regarding “personal space.” If we want to talk to strangers, how far away should we stand? It does not so much matter what the precise answer is (different cultures have different norms in this area), what matters is that everyone shares (roughly) the *same* answer. And while people obviously never stand at precisely the same distance in any culture, if the difference in cultural norms is *too* large, then what appears an acceptable distance to one person will be taken as a severe invasion of personal space by the other, and some sort of conflict—perhaps not violence, but at least an argument or misunderstanding—may result. Another example of a rule serving as a focal point is Locke’s “law of nature” from Chapter 2, which despite the name appears to be more of an informal social standard than a written, codified set of laws, since there is no government in Locke’s state of nature.

McAdams argues that *laws*, similarly, work by serving as focal points. “By publicly endorsing a particular behavior,” he says, “law tends to make that behavior salient, thereby producing self-fulfilling expectations that it will occur” (McAdams 2015, 62). This does require the law to be clear and publicly known, and there cannot be a stronger, competing focal point

that overrides the law (*ibid*). He cites some experiments to back up this theory; I will discuss one of them (64). In this experiment, participants were given one of two fictional vignettes. Both vignettes involved a dispute over ownership of a cat, and they were asked whether they would insist on keeping ownership or allow the other disputant to take the cat. The difference between the vignettes lay in what would happen to the cat if both the participant and the (fictional) antagonist insisted on keeping it. In one version of the story, the cat would be sent to a “distant but responsible” pet owner—which, according to the vignette, both claimants preferred over letting the other claimant have it. This is a prisoner’s dilemma (**PD**), since both parties prefer the third party having the cat *over* the other person getting it, so they both have an incentive to insist on the cat no matter what. In the second version of the story, the cat would be sent to an animal shelter—and possibly euthanized—if both parties insisted on keeping it. Each would prefer the other party get the cat than this outcome (per the story), so this version is a Hawk/Dove game (**HD**), as each claimant would most like to insist *while* the other defers, but both parties insisting on keeping the cat results in the worst possible outcome *for both of them*.

How is this related to the law? For both vignettes, participants were given either a “law” or a “no-law” condition. The “law” condition stated that, while the police and courts were not going to get involved, and nobody had enough money to sue, there was an old judicial precedent that stated the *other* party had the right to the cat. The “no-law” condition served as the control by not talking about any such law. The point of all these different versions was so that McAdams could negate other possible reasons to obey the law—namely, sanctions and belief in the law as a legitimate authority—to focus solely on its ability to facilitate cooperation by serving as a focal point. In the (**PD**) version of the story, there is no cooperation to facilitate; both claimants’

interests are diametrically opposed, so since no one will be sanctioned for violating the law in the story, McAdams predicted that the “law” condition would not have much of an impact. On the other hand, in the **(HD)** version, there *is* a need for cooperation, since neither party wants the Hawk/Hawk (insist/insist) outcome of the cat going to the shelter. McAdams predicted that the presence of a law, even one without sanctions, *would* have an impact since it would make one of the Hawk/Dove outcomes salient. And this is precisely what happened: participants insisted at about the same rate in the **(PD)** version, law or no law, while in the **(HD)** version the percentage of participants who insisted in the law condition was only 27%, far less than the 44% who insisted in the no-law condition (64-65). While this is only one experiment, it does seem to show that the law can impact people’s behavior by serving as a focal point, even if it has no (literal) coercive force whatsoever.

To be clear, neither I nor McAdams claim that legal sanctions are worthless or vestigial. Rather, I am claiming that the primary purpose of sanctions is not to motivate the citizenry *as a whole* to follow the law. As I argued in Chapter 1, if a great number of people collectively resist the law, the state cannot easily stop them. Rather, the purpose of sanctions is to *reinforce* the focal point status of the law by cutting down on lawbreaking before it gets too widespread. In other words, sanctions do motivate *individual* people to follow the law—but they only work on the condition that individuals expect most *other* individuals to follow the law, i.e., the sanctions only work if the law is *already* a focal point. This may seem like splitting hairs, but making this distinction between why individuals obey the law and why the group obeys the law is vital. The law has power because it is a focal point; as I have argued throughout the previous chapter and this one, people have no choice but to follow the focal point in order to cooperate with others.

Then, in order to maintain it as a focal point, individual lawbreakers are punished, because if lawbreaking becomes too widespread the law's salience weakens and other competing focal points may replace it. My point is that violent sanctions (e.g. imprisonment) are not the *basis* of the law's power. At most, they are one major way that the law *maintains* its power.

Moving on from the question of sanctions, one may object that I am conflating social norms and laws in my argument, since I assert that the function of both is to serve as focal points in societal coordination problems. To respond, first of all, suggesting that laws and social/cultural norms are similar is not an original point. H. L. A. Hart, for example, argues that the law is founded on "secondary rules," which are rules *about* the "primary rules," (primary rules being social norms). In other words, secondary rules (the foundation of the law) are rules that specify what counts as a primary rule (social norm) and how those rules can be changed (Hart 1994, 86-96). Moreover, while I am asserting that laws and norms have the same function, I do not think they are exactly the same phenomenon. There are two main features that differentiate them. The first is that laws are *explicit* and relatively *clear* (usually by being written down and promulgated), while social norms are implicit and often vague. People in the same community might disagree about what the proper norm to follow is in a given situation—indeed, they often follow a norm without even knowing what it is. Laws, on the other hand, are codified and explicit enough that, theoretically, everyone in society should be able to agree on what the laws are.<sup>18</sup> The second difference between laws and norms is that the duty of enforcing the law by punishing lawbreakers is the province of a specific subset of people (also defined by law), whereas the entire community has to enforce social norms by punishing those who disobey them,

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18. Though they may disagree on the right way to *interpret* the law. I will return to that point shortly.

e.g. by telling people to follow the norm, ostracizing those who do not, etc. As I will argue in the next subsection, having this subset of people is important since it saves people the time and energy required to enforce norms or laws. Despite these differences, though, social norms and laws are similar in that they both work through coordinating people's behavior as focal points.

*(d) Leaders as Focal Points:* So far, I have focused exclusively on “rule” focal points, either social norms or laws. Historically speaking, humans have governed themselves strictly through these kinds of focal points during most of our existence; this is why hunter-gatherer tribes are relatively egalitarian: they do not need a leader because social norms work just as well as a basis for cooperation. But most legal systems have a particular *person* or group of persons at their head, who possess the power to make, change, and enforce the law.<sup>19</sup> Why might such a *leader*, or leaders, be necessary?

I believe that Randall Calvert provides a good answer to this question. In an analogous way to my argument in this section, Calvert asserts that the function of a leader is to serve as a focal point to solve coordination problems, and so “the leader causes followers to act in concert, whereas they would not otherwise have been able to do so” (Calvert 1992, 19). Normally people can act in concert just through rules, but Calvert argues that leaders become important to solve what he calls “derived coordination problems.” As I mentioned earlier, a collective action problem like the prisoner's dilemma can be ‘solved’ if it is repeated: “full mutual cooperation on every play is the unique efficient symmetrical equilibrium outcome of the repeated game – a natural focal point” (11). However, real life is much more complicated than a repeated prisoner's dilemma. Specifically, unlike in the simplified game theory model, in real life there are many

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19. The people who possess these three abilities need not be united in a single group, as they are not in the US system with its separation of powers.

possible equilibria, or focal points, and if people choose different ones cooperation is likely to break down (12).

Think of it like this: It is in everyone's best interest to cut down on theft, because even if it would benefit me to steal *this* time, in the long-term it will benefit me more if *nobody steals*. This may be why almost all societies have historically had cultural norms and laws against theft—this focal point being the “equilibrium” that Calvert refers to. But that alone is not sufficient, because there are many different possible definitions of “theft,” so there are many different possible anti-theft focal points people could cooperate under (in Calvert's words, there are multiple possible equilibria). Therefore, even if everyone shares a broad anti-theft focal point, if they all *interpret* it differently—if some think there should be a short statute of limitations, others a long one; if some think punishment should be light, others heavy; if some think property can be owned, while others think it cannot be—they will not be able to coordinate around a single standard and cooperation will break down. So far, this argument is similar to H. L. A. Hart's theory that a defect with living solely by social norms is that there is no way to determine what counts as a rule or what the scope of a rule is, and this problem is solved by an explicit “rule of recognition” (Hart 1994, 92-95), which forms the foundation of his theory of the legal system (*ibid*, 100). But the problem of competing interpretations is not solved just by moving from norms to laws. After all, even written, explicit laws are open to vociferous dispute about precisely what they mean, how to interpret them, and whether or not they apply to a particular case. That is why modern legal systems are so massive, with multiple levels of appeal and over a million lawyers in America alone whose job it is to argue for their own interpretation of the law. In sum, if people cannot coordinate their *interpretations* of the focal point, whether that focal

point be a social norm or an explicit law, cooperation is difficult if not impossible. On the other hand, if one particular definition of theft becomes “obvious” to everyone, such that everyone expects *everyone else* to follow it, then it becomes rational for me to follow it too *even if* I personally disagree. This, Calvert argues, is where leaders come in.

Calvert’s argument for this point is similar to the one Locke gave which I summarized in Chapter 2. Recall that Locke’s major issue with the state of nature is that *everyone* has to enforce the law of nature, which makes the process too vulnerable to individual bias (and, as I further argued, would take up far too much time). After all, rules cannot enforce themselves, only people can, and even if everyone coordinates around the same *general* rule they may very well disagree about whether or not it applies to a specific *individual* case. As Calvert says:

“The determination of how various ‘repeated dealings’ are to be linked; the identification of an appropriate pattern of allocation or cooperation out of a universe of possibilities; the application of general rules to imperfect individual cases: all require some essentially arbitrary choice, about which individuals may argue or experiment endlessly without reaching answers.” (Calvert 1992, 14)

In other words, there are many times when determining whether or not a general rule applies to a specific case is essentially arbitrary, so people can disagree endlessly about how the rule should be interpreted. (Locke is also likely correct that bias will taint people’s interpretations of general rules.) Calvert points out that this problem is likely to be particularly acute for groups that (a) lack a long history, (b) have a temporary membership, and (c) primarily face conflicts where people disagree about what is best to do (15). Hunter-gatherer tribes lack these three characteristics, which perhaps explains why many of them apparently functioned without personal leadership for millennia. If I am a member of a small hunter-gatherer tribe, (a) everyone

I am likely to interact with, at least on a day-to-day basis,<sup>20</sup> is someone I have known for my (or their) entire lives, (b) membership is permanent (barring exile), and (c) due to our long history, close ties, and strong social norms, disagreements are not very common. Large contemporary societies, on the other hand, have at least two of Calvert's characteristics. Most people I encounter in a large society are (a) strangers with whom I lack a history and (b) different from the strangers I encountered yesterday.<sup>21</sup> Even if I share the same basic cultural norms as these people, and that is by no means guaranteed, we may disagree about the *specific application* of those norms to our individual situations. If all we have are rule focal points, we will need to resolve each of these disputes by ourselves.

The *consequences* of people resolving these disputes by themselves appear to depend on the dispute in question. If we do not share the same focal point regarding the application of a relatively minor and unimportant norm, there likely will not be major negative consequences. While I argued above that disputes run the risk of destructive escalation without shared focal points, just having some general focal points in common might be enough to significantly reduce that risk, even if we do not share the same understanding of how that focal point is to be applied. At the least, even in large modern societies, most people seem to resolve their disagreements with strangers by themselves, without harmful conflict escalation. The real challenge comes with major and important norms, such as those against murder and theft. If we lack the same

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20. It is true that hunter-gatherer tribes sometimes interact(ed) with other tribes. But their *everyday* interactions were (are) largely limited to members of their own tribe, and everyday interactions are where it is most important that people coordinate around a single way to interpret social norms. If I interact with someone only intermittently, there is not as much of a cost to having disputes over how norms are to be interpreted (though even then there are costs, since there is always a risk that the dispute could escalate).

21. I mean 'encounter' here in a very broad, basic sense. For instance, if you walk down a street, everyone else on the same street is someone you encounter because there is the possibility of interaction and conflict.

understanding for what precisely “murder” and “theft” are, it is much less likely for us to merely agree to disagree; instead, we would have to somehow settle who is right and who “wins,” a process both potentially dangerous and certainly time-consuming. So instead, as Calvert says, a leader or group of leaders interprets these norms and/or laws for us (15). In contemporary society, these “leaders” are judges, and the court system in general.<sup>22</sup> Although we may disagree with the leader regarding individual cases, when this duty is offloaded to (a) designated person(s), we benefit in the long run, as we both save time and energy that would otherwise be spent arguing about interpretation and are less likely to face destructive conflict with our fellows. (Note that this is very similar to the justification Coase and Williamson give for management in firms: instead of making a separate contract with each other for each exchange, decisions about who will do what are “offloaded” to the managers.) In other words, these “leaders,” or the statements and orders of the “leaders,” become focal points.

So far I have focused on why certain individuals (“leaders”) having the power to *interpret* focal points helps people avoid disputes about whether or not a rule applies to a particular situation. But there are two other abilities that governmental leaders usually have: they can also *enforce* and *change* laws (focal points). What benefit might we derive from having individuals with *those* powers? I will address them in turn, starting with the former. As I argued above, while sanctions are not the reason individual people obey the law (or social norms, for that matter), sanctions are often necessary to *maintain* the law’s (or the social norms’) status as the focal point. If too many people start disobeying the rule, people will no longer expect everyone else to follow it, and the rule’s ability to facilitate cooperation will break down. As such, it is important

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22. It is somewhat idiosyncratic to refer to judges as “leaders,” but I am using the term in a broad sense to refer to anyone whose orders are regularly followed by the populace at large.

to punish rule-breakers, in order to deter them and other would-be rule-breakers before disobedience becomes too widespread. However, as I asserted in Chapter 2, following Locke, there are several problems with letting *everyone* enforce the laws, i.e., with vigilante justice. The problem most relevant to this chapter is the last one I stated, that if there are *multiple* people who want to punish the lawbreaker, they need some way to decide who will actually do it—and the same is true if *nobody* wants to punish the lawbreaker. This is a coordination problem, and for the reasons I have discussed already, groups whose members are mostly strangers *to each other* would benefit from having “leaders” decide who enforces their laws. In the United States, these leaders are the executive branches of federal, state, and local governments.

The final power that political leaders typically possess is the legislative power to *change* the law—i.e., to change (some) focal points, according to the theory I am proposing. Calvert does not discuss this in his article, so we will have to look elsewhere. Recall from Chapter 1 that Hart asserts that laws are *secondary* rules, i.e., rules about primary rules, primary rules being social norms that directly concern human action. One purpose of having such secondary rules, he says, is that without them it is very difficult to *change* the rules:

“The only method of change in the rules known to such a society [that only has primary rules] will be the slow process of growth. . . . There will be no means, in such a society, of deliberately adapting the rules to changing circumstances, either by eliminating old rules or introducing new ones.” (Hart 1994, 92-93)

In other words, Hart is saying that without having rules *about* rules, it will take society a long time to change the rules they live by. The solution to this is what he calls “rules of change,” and the example he gives is a rule that “empowers an individual or body of persons to introduce new primary rules for the conduct of the life of the group, or of some class within it, and to eliminate old rules” (95). How are we to evaluate this argument? It does seem true that without secondary

rules, there is no way for a group to deliberately change their primary rules. But while Hart's example gives the impression that a "rule of change" must give a particular person or group the ability to introduce new rules or abolish old ones, that does not seem necessary. It is possible for the rules of change to specify a *procedure* that the group as a whole can use to change the rules (focal points, under my theory) they live by. So while Hart's argument is sufficient to show the need for some sort of specified legislative *process*, it is not enough to show why we might need a *legislator* (or legislators).

How might individual legislators be useful? Another way to put this question is, what reasons are there not to implement direct democracy? It is beyond the scope of this essay to discuss the normative question at hand in detail, but the analysis I have given suggests that there are at least *some* benefits that legislators bring to the rest of society. Consider again Coase's argument in Chapter 2 that hierarchical firms have an advantage over the price mechanism since they greatly reduce the number of contracts workers have to make with each other. Similarly, deciding when and how to change focal points takes a lot of time, and if a designated "legislator" or legislators does it, that saves the rest of us a great deal of time and energy. I do not claim that this is a decisive *normative* argument for legislators, but it is one reason to have them—and moreover, it indicates another way in which state power is similar to managerial power.

In sum, then, I am proposing that political leaders come to be when a certain individual or group gains the power to *interpret*, *enforce*, and *determine* some of the focal points that a given community follows.<sup>23</sup> These powers need not go together. For instance, it is possible that at first, leaders merely had the power to interpret a community's preexisting norms. Perhaps later they

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23. It is not relevant to this essay precisely how those individuals gain power. I assume it is mostly due to contingent historical circumstances.

gained the ability to *enforce* the norms by designating certain people as “enforcers,” and eventually even the power to *change* the community’s focal points via writing down and promulgating explicit rules, i.e. laws. Regardless of the order in which they acquired these powers, though, the result is the same whether we are looking at politics or the economy.<sup>24</sup> In a government, it means that judges and politicians have the ability to interpret and change the law and punish those who disobey it; in a firm, it means that managers have the ability to determine the economic behavior of their employees. The point is that, in both governments and firms, the source of the leaders’ power is not violence but *their status as a focal point*.

I will clarify what it means to say that a leader or group of leaders is a focal point. Just as I argued in the previous section that managers have their power due to a broad societal focal point “managers get to order their employees,” the power of the government to interpret, enforce, and change focal points *itself* derives from a separate, broader focal point. Recall my arguments in Chapter 1: individuals do not obey the government because they fear punishment. Rather, they obey the government because they *expect* everyone else to—which, as I have argued in this section, means that there is a focal point, “obey the government,” that coordinates people’s actions through shared expectations. The full process, then, goes like this:

1. A “legitimizing” focal point, either a social norm or a law, comes into being that says: “X gets to interpret, enforce, and change (some of) the other focal points.” Who this X is—i.e., Hart’s “rule of recognition” I discussed in Chapter 1—will differ from case to case. The most common historical examples of “X” include a particular person and their descendants

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24. The precise historical process that causes individual leaders to gain power, which likely varies considerably from case to case, is not relevant to this essay. My argument is not about what *causes* leaders to obtain power, but what that power *consists in*.

(monarchy)<sup>25</sup> and whoever receives the majority of votes in an election (representative democracy). There are other possible options, though, such as ancient Athens's method of determining leaders by lot. Furthermore, there are almost always numerous focal points that the political leader(s) cannot remove or change, even if they wanted to; these are typically social norms that are deeply embedded within the culture, but they can also be a particular subset of "higher" laws such as a Constitution. Hence, the legitimating focal point that designates some person(s) as the leader(s) also limits their *scope*, i.e., determines which focal points they have power to change or remove and which they do not.

2. The person designated as the "leader" by the legitimating focal point in 1 then proceeds to determine what (some of) the *other* focal points will be: A, B, C, etc. (These tend to be laws and not social norms.)

3. At this point, everyone in the group *expects* everyone else to follow A, B, C, etc., and it thus becomes necessary for them to follow A, B, C, etc. too in order to cooperate.

Strictly speaking, then, a "rule" focal point<sup>26</sup> is always at the *core* of societal cooperation. However, when that rule, which I call a "legitimizing focal point," invests an individual or group with the ability to determine (some of) the *other* focal points, the resulting power is notable

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25. To be specific, what happened in e.g. European feudal monarchies was that there existed a focal point that stated: "The person who gets to determine the law is the firstborn son of the previous person who got to determine the law," with various additional provisions for when the firstborn son was dead or nonexistent (see also Sabl 2012, 133-134). I would suggest that succession crises occurred whenever this focal point broke down, either because there was no obvious heir who fit the focal point or because a large enough number of people started following a different one.

26. It is true that there are usually explicit laws that state which people count as "legitimate authorities" who can change or execute other laws. However, the fact that *these* laws are followed, instead of other possible laws or norms, cannot itself be a law. In other words, to explain why (e.g.) people in America follow the Constitution, we cannot appeal to the Constitution itself, but rather must appeal to a more informal and implicit social norm.

enough that it is justifiable to refer to them as “leaders.” This is true even though there are likely to be many focal points (especially social norms, but sometimes laws too) that they *do not* determine and could not change even if they wanted to. The focal points they *are* able to change are important enough that their decisions still significantly shape the course of everyone else’s day-to-day and long-term lives.

*(e) Some Important Clarifications:* I will briefly recapitulate my arguments thus far. Recall my argument in the previous section that cooperation is necessary for an economy to function, which (almost) everyone needs, and therefore people effectively have no choice but to follow the economic focal points, including the one that states that workers must obey their managers. I have argued something very similar in this section. In order for people to live together, they need to cooperate on a great many things. That in itself is hardly an original point, but as I have emphasized, it means that people have to coordinate around a *particular method* to achieve their collective goals. We want to stop our ordinary disputes from escalating, so we coordinate around a resolution. We want our lives and possessions to be safe, so we coordinate around particular definitions of “murder” and “theft.” These problems, like all other coordination problems, can only be solved with focal points. One way to solve them is through impersonal “rule” focal points, namely social norms or laws. But especially when a group is large enough that most of its members are strangers to one another, cooperating merely via rule focal points risks constant argument and conflict about how best to interpret, enforce, and/or change the rules. This is where leaders come in: A special “legitimizing” focal point designates certain persons as “leaders,” whose interpretations and pronouncements themselves become focal points. At that point, ordinary people’s personal opinions on their leaders are irrelevant, because (as I argued in

the last chapter) focal points are not a matter of choice. In order to cooperate with their fellows, they *must* follow the focal point, like it or not, precisely because they cannot reasonably expect others to do anything other than the focal point. And even a terrible leader is almost always better than a complete breakdown of societal cooperation.

One may object that the previous sentence seems absurd. What about absolute rulers, such as the King or the Church? What about tyrannical or genocidal dictators, like Hitler or Stalin?<sup>27</sup> But consider just what *total non-cooperation* would mean in the social and political realm. It would mean a complete inability to accomplish any collective goals. Moreover, it would mean nobody could reasonably expect anyone else's actions. It would be impossible to work together to build anything, to hold celebrations or rituals, or even to develop common standards of crime and punishment. It would, in short, result in almost certain death. Hence, the only time a total breakdown of cooperation would be preferable to following a focal point is if the focal point would *also* result in near-certain death. So for instance, to the Jews under the dominion of Nazi Germany, non-cooperation was preferable to following the focal points that resulted in the Holocaust. But that is an extreme case. For most people, including notably non-Jewish Germans under Hitler,<sup>28</sup> there will almost always be an incentive to follow the focal point,<sup>29</sup> no matter how destructive it might be.

I want to clarify three things here about the theory I am proposing. First, I am not claiming that a leader or dictator is necessary for social cooperation. Rather, I am claiming that

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27. I thank Carol Gould for this objection.

28. While there was an incentive for non-Jewish Germans to follow the Nazi focal points, their moral imperative was to (attempt to) *change* their focal points (see footnote 30), thus preserving cooperation while still opposing Hitler.

29. I will discuss how my focal point theory approaches the psychological motivations behind obedience and rebellion in subsection (g).

*once a focal point exists*, the only way to cooperate with one's fellows is to follow it, regardless of the specific details of that focal point. The reason is simple: By definition, I cannot reasonably expect my fellows to do anything other than the focal point, which motivates me to follow it. And my fellows *also* expect everyone else to follow the focal point, which motivates them to follow it too.<sup>30</sup> Whether the focal point brings other destructive consequences, up to and including genocide, is not relevant to its ability to facilitate cooperation.<sup>31</sup> It is not even necessary that there be many people who agree with the focal point. Indeed, it is theoretically possible that *nobody* agrees with the focal point, that everyone would prefer replacing it with a different one, but they follow it anyway because they still *expect* everyone else to follow it. So my claim is not that a leader is necessary for cooperation, but that *focal points* are necessary for cooperation. Sometimes the focal point just happens to be a leader or a dictator.

Second, I am not denying that fear of imprisonment or death is often the main reason people obey the government, especially when that government is oppressive. The question is, why is the government's threat of punishment *credible*? Kings and Presidents do not typically administer punishment directly. Their threats are only plausible inasmuch as most people, and especially most soldiers, obey them. As I argued in Chapter 1, the state's control of violent weaponry cannot explain why their *soldiers* obey them, since the soldiers are the ones who directly wield force. Moreover, as I further argued, if a large number of ordinary people were to revolt then even the army may not be able to adequately quell them. Force does not give leaders

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30. We could attempt to change our focal points, but that is often difficult, particularly in the political and economic realms. (I will discuss this more at the end of Section 4.) Even if we did so, we would still be following focal points, just different ones, so my overall point remains the same.

31. Genocide, it should be noted, also requires cooperation. A single person cannot commit genocide by themselves, after all—they need to cooperate with others to do it. Cooperation is a morally neutral phenomenon, like a tool; whether it is good or bad depends on what it is used for.

their power; rather, force is only a credible deterrent when they *already have* power. So as I claimed in subsection (c), the primary function of sanctions is to *preserve* already-existing focal points. In other words, Arendt is correct in *On Violence* when she says, “Where commands are no longer obeyed, the means of violence are of no use” (Arendt 1970, 49). Sanctions are useful to motivate individual people to obey the government, but they are *only* useful if the government already enjoys widespread obedience, and that is the result of focal points.

To see this more clearly, consider the case of soldiers in particular. Recall my argument in Chapter 1 that state power cannot be based on force because that would not explain why those who directly wield force—the police and army—obey the state. Similar to my argument above, while the threat of sanctions may motivate *individual* soldiers to obey their superiors, if the army as a whole were to revolt, the (civilian) government would not be able to stop them.<sup>32</sup> Hence, violent sanctions are only an effective threat if the leader *already* has the loyalty of a large number of soldiers. As for why they have this loyalty, the army is also a collective endeavor; to properly function, all or most soldiers need to do the same thing in the same or similar ways. Focal points are necessary for them to do this. If the soldiers expect (most) other soldiers to do something, e.g. to obey a particular person, they have an incentive to do so as well. In other words, the major reason that individual soldiers are likely to suffer punishment for disobedience is because the political leader is a focal point for the army. Another way to put this is that leaders can only credibly threaten their soldiers with punishment if the soldiers can reasonably expect all

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32. The only way a ruler could effectively fight off a mass revolt of their soldiers is if they somehow gain the loyalty of another army, e.g. mercenaries. But that just raises the question, why does this other army obey the ruler? Inasmuch as mercenaries are similar to employees, since they do a job for money, they would fall under the theory I gave in Section 1. Other types of armies are subject to the argument I am currently making, that if they were to disobey *en masse* there would be nothing the leader could do about it. So no matter what, the threat of punishment cannot explain why the army as a whole obeys their political leaders.

the *other* soldiers to obey the leader. This is not to claim that most soldiers think this way; there are likely many psychological motivations for soldiers to obey their superiors, including a genuine belief that they have a moral obligation to do so. My claim is that, if ‘power’ refers to the fact that one’s orders are followed, then one can only credibly threaten retribution if one *already* possesses power.

Third, I am also not denying that many political leaders throughout history held absolute or near-absolute power, such as monarchs and dictators. Instead, I am attempting to explain the *source* of their absolute power. I mentioned above that the “legitimizing” focal point also determines the *scope* of the leader’s power; absolute monarchs held such power because their legitimating focal point placed very few limits on them. To explain in more detail how this works, I will temporarily move from absolute monarchy to the rule of law. The contemporary United States (theoretically) abides by the rule of law: the government is not supposed to violate the Constitution. The focal point theory I am outlining explains this phenomenon as follows. The legitimating focal point in the US states that the Constitution is the supreme political focal point, and the (duly elected) government’s pronouncements count as focal points *unless* they are in violation of the Constitution. When the rule of law functions properly, (almost) everyone in the US, whether they are in government or out of it, expects everyone else to follow Congress and the President *unless* their actions violate the Constitution, in which case they expect everyone else to *disobey*. So while the Constitution has real power, it *only* has power (I am suggesting) due to its status as the supreme political focal point. If it were to lose that status—for instance, if people started consistently disobeying it (or parts of it), thus lessening the expectation that everyone else will obey it, thus leading to even more disobedience, etc.—it would lose its power.

By contrast to a rule of law country, in an absolute monarchy, the legitimating focal point places few limits on the number of focal points the monarch can change or remove. While there were almost always some *social norms* that even the absolute monarchs could not touch, at least not without risking severe backlash,<sup>33</sup> there were no explicit *laws* that an absolute monarch's legitimating focal point forbade them from violating. As such, all of the monarch's pronouncements became focal points, and all of their subjects expected (almost) every other subject to obey the monarch, which incentivized them to obey as well for the reasons I have covered throughout the previous chapter and this one.

(f) *Comparison to Lewisian Conventions*: To further elucidate my argument here, I will compare and contrast my conception of “coordination rules” with David Lewis's theory of conventions. Lewis in his book *Convention* gives a theory of conventions as being based on focal points, so we should expect it to have similarities with my own theory. After some work, this is the final definition he arrives at:

“A regularity  $R$  in the behavior of members of a population  $P$  when they are agents in a recurrent situation  $S$  is a *convention* if and only if it is true that, and it is common knowledge in  $P$  that, in almost any instance of  $S$  among members of  $P$ ,

- (1) almost everyone conforms to  $R$ ;
- (2) almost everyone expects almost everyone else to conform to  $R$ ;
- (3) almost everyone has approximately the same preferences regarding all possible combinations of actions;
- (4) almost everyone prefers that any one more conform to  $R$ , on condition that almost everyone conform to  $R$ ;
- (5) almost everyone would prefer that any one more conform to  $R'$ , on condition that almost everyone conform to  $R'$ , where  $R'$  is some possible regularity in the behavior of members of  $P$  in  $S$ , such that almost no one in almost any instance of  $S$  among members of  $P$  could conform to both  $R$  and  $R'$ .” (Lewis 2002, 78)

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33. For example, one cause of the English Civil War was that King Charles I attempted to interfere with England's religious norms (focal points, under the theory I am proposing).

A few comments before I explain how this differs from my theory. **4** is a more complicated version of his earlier requirement, “everyone prefers to conform to *R* on condition that the others do, since *S* is a coordination problem and uniform conformity to *R* is a proper coordination equilibrium in *S*” (42). He makes this change at least partly to differentiate his theory from David Shwayder’s notion of “cooperative behavior” (46, 107), but that does not particularly concern me, so the reader may replace **4** with his earlier, less-complicated principle if they wish. Regardless, this, along with **2**, makes Lewisian conventions into focal points for coordination games. Lewis adds **3** and **5** in order to ensure that there is always an *alternative* to a particular convention (72); e.g., it is a convention that we drive on the right side of the road, but we could just as easily drive on the left. Finally, note that Lewis requires not merely that people conform to a regularity, but that they *know* that most other people conform to that regularity, so that conformity is common knowledge in the population.

Lewis’s definition of conventions is indeed similar to my notion of social norms/laws/rules that serve as focal points, but it is not the same; rather, my notion is much like what he calls “social contracts” (though these “social contracts” are different from the Hobbesian/Lockean social contract, and the term “contract” is somewhat misleading—more on this later). According to Lewis, the difference between a convention and a social contract lies in his 4<sup>th</sup> requirement. A focal point is a convention if I prefer that *everyone* follows it over everyone *except me* following it, while it is a social contract if I prefer that everyone follows it over there being *no* focal point (90). To rephrase, there are three relevant states of affairs to the current discussion. To use Lewis’s terms (90-91), they are:

Status Quo (SQ): Everyone follows the focal point, e.g., obeying the sovereign.

State of Nature (SN): There is no focal point, we have a Hobbesian war of all against all.

Lone Disobedience (LD): Everyone follows the focal point *except me*.

If most people in the population prefer SQ to SN, we have a “social contract.” If they prefer SQ to LD, we have a convention (under Lewis’s definition). My argument has been that focal points develop in both the economic and political realms because it benefits everyone to have *some* focal point rather than to have *none* as the focal point enables them to cooperate, and in that way they are like Lewis’s “social contracts.” As such, Lewis’s rough definition of social contracts is a good summary of what I am talking about:

“I propose to define a *social contract* roughly as any regularity *R* in the behavior of members of a population *P* when they are agents in a situation *S*, such that it is true, and common knowledge in *P*, that:

Any member of *P* who is involved in *S* acts in conformity to *R*.

Each member of *P* prefers the state of general conformity to *R* (by members of *P* in *S*) to a certain contextually definite state of general nonconformity to *R*, called the *state of nature* relative to social contract *R*.” (88-89)

I will note, though, that it would be more accurate to say that *most* members of *P* who are involved in *S* act in conformity to *R*.

Now we have to ask: is leadership a convention *as well as* a (Lewisian) social contract? It will be more useful to approach this from the opposite direction and ask if leadership is ever *not* a convention, despite always being a social contract. As Lewis says, to not be a convention people in the population need to prefer Lone Disobedience to the Status Quo, but that raises the concern of why they even conform to the regularity in the first place (93). The solution to this concern depends on what we mean by ‘preference.’ If a preference is the result of *all* factors that determine one’s choices, then nobody would conform if they preferred LD over SQ. Since social contracts require most people to conform to them, there could then be no social contract without

convention. On the other hand, if we define a preference as the result of all choice-determining factors *other than* those relating to duty or morality, then it is possible for people to prefer LD over SQ yet still conform, as they might believe it to be their moral obligation. If we assume this narrower definition of preference, then there are in fact some leaders/laws/managers who govern via social contract but *not* (Lewisian) convention, as a good portion of their subjects would prefer to personally disobey the law while everyone else follows the law. Under the wider definition of preference, though, any leader who manages to attain general obedience will rule by convention as well as by social contract, though as Lewis points out (94), it is a convention *because* it is a social contract, since its being a focal point is what makes people believe they have an obligation to follow it.<sup>34</sup>

It is also important to emphasize, however, that for most of the focal points I am concerned with, people really are incentivized to obey them as long as everyone else does. If everyone else in my workplace obeys the manager, I am incentivized to also obey my manager, or else we will not coordinate and our productive output will decrease considerably or disappear entirely, leading to lower profits and thus lower wages across the board. If I get into a small-scale conflict with someone, I am incentivized to follow the focal point solution as long as I believe my opponent will, or else the conflict will destructively escalate. Even for the laws where it seems people have an incentive to disobey when everyone else obeys, such as laws against theft, people are only incentivized to break the law if they think they can do so secretly; if people know

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34. Lewis does cite another possible way for a social contract to fail to be a convention. To be a convention, there needs to be a possible *alternative* convention that could serve equally well as a focal point. So if the only alternative to a social contract is the state of nature, then it is not a convention, as the state of nature is not a coordination equilibrium (95). However, in all the cases I have discussed so far, there are multiple coordination equilibria (multiple possible leaders, multiple possible norms), so this is not relevant to my essay.

that I am a lawbreaker, they will refuse to cooperate with me, which will hurt me far more in the long run. Therefore, even under the narrower definition of ‘preference,’ most leaders, laws, and managers are *both* social contracts *and* Lewisian conventions.

(g) *Response to Objections:* Finally, I would like to respond to three objections. First, one may object that this analysis is too similar to the social contract theories of Hobbes and Locke, and so it shares their false assumptions. Particularly, I may appear to be assuming that humans are separate from their social surroundings and “choose” the social system that best helps them complete their individual goals; however, in fact humans are highly influenced by and dependent upon their social surroundings, and (almost) nobody deliberately chooses the power regime they live under.<sup>35</sup> This appearance is further reinforced by the fact that I just discussed how my conception of focal points is similar to what David Lewis calls “social contracts.” But while there may be some surface similarities between my theory and the Hobbesian/Lockean social contract theory, such that I understand why Lewis calls this phenomenon a “social contract,” there are several fundamental differences. First, Hobbes and Locke are attempting to offer a *normative justification* for a certain type of governmental regime; by contrast, I am attempting to give a *descriptive account* of what state (and corporate) power consists of. This leads to the second difference. Hobbes and Locke, each in his own way, essentially argue that government *now* is justified because, in a hypothetical state of nature, people would freely consent to a government.

Contrary to Hobbes and Locke, as I argued in Chapter 3, people often (possibly most of the time) do not consent to focal points, which is why it would be misleading to call them “contracts.” Focal points are just *there*, and people have no choice but to follow them if they

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35. I thank both Linda Alcoff and Carol Gould for this objection.

want to cooperate. And as I also argued in Chapter 3, the reasons people want to cooperate are not relevant to me—focal points are important because they explain *how* people cooperate. So it makes no difference to this essay whether people are hyper-individualistic and only cooperate out of self-interest, are hyper-communal and only cooperate because they identify strongly with the group, or if the truth is somewhere in between. Indeed, inasmuch as our goals (and personhood) are influenced by society, that makes it all the more important for us to coordinate our actions with our fellows.<sup>36</sup> And since I am not asserting that people *choose* or *decide* on their leaders, I do not face the same problem Hobbes and Locke do of trying to prove a normative point through a hypothetical situation. Rather, all I am assuming is that people want to cooperate, and for that reason they are more or less forced to follow the focal points. Therefore, despite some seeming similarities, my argument is not really a traditional social contract theory at all.

The second objection I would like to consider is that the theory I am advancing has too limited a view of power. There are two ways one might object to the theory on this basis. First, it may appear as though I am only envisioning power as a hierarchical, top-down phenomenon—the leader gives explicit pronouncements, which become the focal points that everyone else follows. However, there are more implicit and subtle types of power out there. What about the power some people have due to their expertise, or popularity? Or the power someone can have just by being particularly persuasive or adept at communication, even without having an explicit status advantage?<sup>37</sup>

To respond, first, we should strongly distinguish between X doing something because Y *persuaded* X that it is right, and X doing something because Y *made it the focal point*. As I have

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36. One could argue that the existence of shared cultural norms and values accomplishes this. But as I argued previously, cultural norms are one type of focal point.

37. I thank Linda Alcoff for this objection.

emphasized, people often follow focal points they do not personally agree with, and on the other hand, people often do what they personally think is right even if they do not expect anyone else to join them in it. Persuasion, then, is not necessarily a type of ‘power’ under my theory.<sup>38</sup>

Second, I do not mean to imply that the only way to set focal points is through explicit commands or declarations. It is certainly possible to do so through more indirect methods as well, such as by leveraging one’s social status or making use of interpersonal connections.

Indeed, the focal point theory is much better able to explain these more subtle forms of power than some competing theories. The common theory, for instance, would have trouble explaining any type of power that is not based on the threat of violence, and it does not seem that these more subtle forms of power involve violence (at least, not directly). On the other hand, the theory I am proposing explains implicit power relations just fine as long as we can identify that someone’s actions are influencing the focal points others follow, regardless of the methods they use to do so. For example, while experts often have power due to people genuinely respecting their expertise, they may also have power because, due to their status as “experts,” their pronouncements are prominent and salient, i.e., are focal points. There is much more to be said on this topic, but this essay focuses strictly on *economic* and *political* power, not other kinds, so while I do think the theory I am proposing has broader applications, I do not have the space to explore those here.

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38. One could assert that, similar to a point I made in the previous chapter, even if Y does not change the focal points by persuading X, it is impossible to persuade someone *unless* you make use of the focal points that person believes in. For example, if Catholicism is a focal point religious authority in a particular community, it will be much easier to persuade someone to do something if I make use of Catholic dogma. This is an interesting and vital topic, but it is beyond the scope of my essay. Regardless, even if persuasion *depends* on focal points, it is still distinct from *determining* the focal points (or the interpretations of focal points), which is what leadership does.

Moving on, then, while the previous objection is that my view of power is *too* top-down, another possible critique is that my view of power is *not top-down enough*. To be more specific, one could argue that by proposing that people “prefer” following the focal point to non-cooperation, I am discounting the importance of *domination*, the ability of those with power—whether they be political rulers, managers, the wealthy, men, white people, or any other powerful group—to impose their will on those with little or no power.<sup>39</sup> It is implausible at best, this objection says, to assert that the victims of domination and oppression in any way “prefer” their abjection to some other outcome, or that following their oppressors’ orders facilitates their cooperation.

But is it truly implausible? Consider a 2017 poll conducted by the European Union, asking 18-to 34-year-old Europeans the following question: “Would you join a large-scale uprising against the government?” (Mohdin 2017). Over half of the respondents said they would, including 67% of young Greeks (*ibid*). Despite this, no such uprising has occurred, not even in Greece. This cannot be purely due to young Greeks’ fear of reprisal from the police or army, since they would still risk reprisal by *joining* an uprising. Assuming they are not mistaken about their own willingness, then, the reason there has been no large-scale uprising must be that, while they would be willing to *join* a revolt, they are not willing to put their necks on the line to *start* one. Indeed, starting a revolt would almost certainly result in imprisonment or death, but joining a revolt that *already* started is much less risky, since the greater the number of rebels, the harder it is for the government to punish every single one of them. But when (understandably) nobody is willing to risk launching a revolt by themselves, and especially if they do not expect a sufficient number of comrades to *join* them were they to start rebelling, a revolt never takes

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39. I thank Carol Gould for this objection, as well as the ones after it in this subsection.

form, despite the fact that (apparently) an uprising already in full swing would enjoy substantial support. This is an example of focal points at work: when I do not expect anyone else to rebel, I do not rebel either. It is only when I *do* expect a large number of people to rebel—an expectation that mostly only forms if they are *rebellling already*—that I can be convinced that a potential rebellion might succeed and so have reason to rebel myself.

The point of this example is to clarify what I mean when I say that people “prefer” following the focal point. Clearly, young Greeks—as well as many or most victims of domination—do not like their regime. So when I say they prefer it to noncooperation, what I mean is they prefer obeying the government to being *by themselves*, to acting on their own and not cooperating with any other people. The only way to coordinate one’s actions with others is to follow the focal point, because the focal point is what determines my expectations of what others will do and their expectations of what I will do. Any focal point can be used for this purpose; I am certainly not suggesting that domination is a *better* focal point than any other. But as long as a certain individual or group *is* the focal point, their orders are salient, and the only way those under them can cooperate with *each other* is to follow the focal point, unless of course they can create a different, rival focal point of their own.<sup>40</sup> It is in that sense, and that sense only, that power facilitates cooperation.

A different way one could argue that the focal point theory insufficiently takes into account domination is by asserting that the focal point theory does not provide an adequate explanation for how those in power *establish* and *maintain* their power. Regarding the former, all I can say is that individuals and groups take political power by becoming prominent or salient in

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40. Victims of domination can also create in-group focal points that are distinct from, but do not actively conflict with, their oppressors’. But when they do this, the oppressors’ focal points are still in effect, even if their strength and scope may be weakened.

the given community, thus incentivizing people to follow them in order to cooperate. The precise means by which they become salient will differ from case to case—that is a matter for historians, not philosophers. I do not think the focal point theory is much different from other theories of power in this regard. For example, all the common theory can say is that governments take power by gaining a monopoly on legitimate violence, and the precise way they do this will differ. As for how those in power maintain it, there are various possible methods. Power often maintains itself, since the status quo is usually an obvious, prominent focal point. The powerful can also make themselves and their orders *more* prominent and salient by publicizing their laws and actions, holding huge events and parades, and the like. (Making the leader more salient, thus more of a focal point, may be one way that propaganda maintains or increases power.) Alternately, they can tamp down on *competing* focal points by punishing those who follow the rival focal points, “atomizing” their subjects so they cannot work together, etc. There are likely other methods too, but this should be enough to demonstrate that the theory I am proposing can serve as a jumping-off point for more detailed analyses of specific real-world examples where leaders gain and maintain power.

Lastly, one could object that my theory relies on a controversial empirical claim, that people prefer following focal points to a breakdown in cooperation, and I have not given sufficient evidence for this claim. It is difficult to evaluate this objection because, while my claim is indeed empirical, it is not the kind of statement that we can easily test or offer hard evidence for. We could poll people, but poll responses are heavily impacted by question wording (Pew Research Center 2019), and anyway it is not clear that most people have accurate insight into their thought processes concerning a complicated theoretical question such as this one. We

could design an experiment wherein following the focal point appears worse than noncooperation, but no matter the results there would always be multiple conflicting interpretations. This is likely due to the fact that any claim regarding (quasi-)universal motivations for human action is difficult or impossible to prove empirically. For example, many psychologists assert that “so-called altruistic behaviour is ultimately egoistically-motivated, the end goal being one’s own welfare” (Feigin, Owens, and Goodyear-Smith 2014, 3). Any example of altruism can be interpreted as really being motivated by selfish desires, e.g. we help others to feel good about ourselves. Therefore, it seems that no empirical discovery can decisively settle whether or not “true” altruism is possible. Similarly, if people follow focal points, opponents of my theory could always argue that it is due to reasons other than a preference to avoid total noncooperation—and if people disobey focal points, I can always say that it is because they are really following a *different* focal point, thus keeping my theory intact.

However, there are some things I can say in defense of my assumption, though none of them will be decisive. First, recall what I argued in subsection (e) above, that in a social and political context total noncooperation would result in almost certain death. We need to cooperate in order to survive, and we cooperate by following focal points. This suggests that, at least in the vast majority of cases, people will prefer following the focal point—regardless of what the focal point is—to a complete lack of cooperation. This does not mean they will always obey the government, but it *does* mean that if they disobey the government, that is likely because they are following a separate focal point instead. Second, alternate explanations for why people obey the state *rely on* the fact that the state already enjoys widespread obedience. I have already discussed this extensively with respect to the state’s threat of violent sanctions. This is also true for the idea

that people obey the state because they believe it to be legitimate; if a state were to lose its power and face widespread revolt, its legitimacy would also be severely damaged (at the least).

Therefore, due both to the plausibility of my assumption and the defects with its competitors, I think the assumption is justifiable, at least until a more plausible explanation is proposed.

*(h) Conclusion:* To summarize my argument in this section, I will use Andrew Sabl's interpretation of David Hume's theory of political authority. According to Sabl, Hume believes that ordinary people's *allegiance* to government and governmental *authority* are two sides of the same coin (Sabl 2012, 94). This is because "government is constituted by ordinary citizens' allegiance, by an observed tendency to take direction from certain people called magistrates (later officials) combined with an internalized norm of doing so" (*ibid*). Alternately, as Calvert puts it, "It is misleading to say that leadership is based on power. In an important sense, rather, power is based on leadership" (Calvert 1992, 19). Specifically, the fact that people obey the leader (allegiance) and the fact that the leader has power (authority) are really *the exact same fact*: the leader provides a focal point that resolves coordination problems, which are rampant wherever people live together. As we saw in the coordination game experiments I discussed in Chapter 3 Section 3, people follow the leader because this lets them solve the coordination game, and their status as the focal point enables the leader to choose whichever focal point solution they personally prefer. Power is the ability to set focal points, no more and certainly no less.

### **Section 3: Comparison to Other Theories**

In this section, I will show that the focal point theory of power I have advanced is superior to some other major theories of the same. I will discuss the following five theories: (a) the "common theory" I criticized in Chapter 1; (b) the orthodox Marxist idea that power is based

on ownership of property; (c) Christopher McMahon's view, which I discussed in the Introduction; (d) Stephen Lukes's theory of power as based on objective interests, which I briefly mentioned in Chapter 1; (e) Richard Flathman's view that power relies on the common beliefs and values in a community.

(a) *The Common Theory*: Recall that the common theory is the view that the state's power rests on its monopoly of legitimate force. In Chapter 1, I levied three main critiques of it: (i) however we interpret "legitimate force," problems arise; (ii) the theory does not explain why the state's *enforcers* obey its *leaders*; (iii) it does not adequately explain why ordinary citizens obey the state at all. The focal point theory, on the other hand, does not suffer from these flaws. I will discuss them in order. (i): I have argued that a state's power derives not from force but from its ability to interpret and/or determine focal points. So an organized crime ring, for example, does not count as a "state" as long as it lacks control over the focal points that coordinate ordinary people's behavior. Importantly, though, this is not an all-or-nothing proposition. It is entirely possible, and indeed frequently happens, that a group's focal points are influenced by more than one distinct entity, and they may even be contradictory. In other words, it is possible for a certain individual or group to influence only *some* focal points in its community, and for them to compete with another individual or group who also has control over some focal points. So if a crime ring, for example, does start determining *some* focal points, they are effectively "semi-states." They can become more "state-like" as the number of focal points they set increases, they solve more and more coordination problems, and people start obeying them mostly out of habit.<sup>41</sup> Since my theory does not rely on "legitimate force," it is entirely consistent

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41. Does this mean that a state, or at least a "semi-state," can exist without a specific territory or defined scope? (I thank Carol Gould for raising this issue.) As I said in Chapter 1 (footnote 2), I will not be concerned in this essay with the question of whether or not territoriality is a necessary

for me to view statehood as a spectrum. This may seem unintuitive at first glance, but when we look at the process whereby states form it actually makes far more sense than an all-or-nothing theory. ISIS, for instance, started as a terrorist insurgency but eventually became (effectively) a state, though it later collapsed and is now no longer a state or state-like. It would be ridiculous to pick one specific moment and declare that ISIS was a total non-state before that moment and a total state afterward; rather, we should say that ISIS gradually became *more and more* a state as it started determining more and more focal points for its territory, and it became less and less of a state as its grip over focal points loosened.

(ii): The reason army privates and police officers are not heads of state is that they do not set the social norms. On the contrary, they *follow* the norm that “soldiers obey the orders of their superiors,” which includes generals obeying the commander-in-chief. The reason they follow this norm, of course, is because they expect all the *other* soldiers to follow it, which indeed they do (most of the time). Again, because power is based on focal points and not violent force, there is no problem in asserting that low-ranking soldiers mostly lack it. Furthermore, my theory predicts that if the social norm granting status as a focal point to the government weakens, other possible focal point candidates (including the army) would start to challenge their authority, and this does indeed happen with some frequency. (iii): Similarly, citizens do not obey the government out of fear of violent retaliation but because they expect all (or at least most) other citizens to obey the government. If people *stop* obeying the government, its status as the focal point will weaken or even collapse completely. This, incidentally, is the logic behind protests: demonstrate that at least

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feature of statehood. If it is, then to count as a semi-state, an entity must have a certain *territory* over which it influences some of the focal points. This is not so unusual since many organized crime rings, for instance, have such a territory. Alternately, if territoriality is *not* required to be a state—the view I tend to favor—then it is not a problem if states or semi-states lack a territory or defined scope. But I do not think anything else I argue hinges on how we answer this question.

*some* people refuse to accept the government's authority and in so doing weaken its status as the focal point, removing the main reason *anyone* obeys the government. In conclusion, then, the focal point theory does not suffer from the flaws I pointed out with the common theory.

A defender of the common theory may object that, despite its flaws, the common theory gets at a very important point: almost every government throughout history has been the dominant military force in its territory, and history is littered with examples of an individual or group taking power through violent conquest. How does my theory explain these facts? The answer is simple: Force is not the basis of political power, but it *is* often the most obvious *focal point*. If I am wondering who my fellow citizens are likely to follow, "the person who led the army that conquered our capital" is a pretty good guess. It should also be noted, though, that this is often only true immediately after a military conquest; after enough time has passed, the existing government sometimes starts to be the focal point due to habit, tradition, etc., not just the fact that it has the most guns. Once possession of the means of violence is not the main reason the state is the focal point, the purpose of state violence is mostly to either battle other states, or to punish individual lawbreakers to ensure their number does not increase, precisely because if too many people break the law too often the government will stop being a focal point.

(b) *Orthodox Marxism*: I would also suggest that the focal point theory is superior to the theory of power offered by orthodox Marxism.<sup>42</sup> Orthodox Marxist theory states that the power of the capitalist (class) derives from their ownership of the means of production. This summary is a bit misleading, however, since according to orthodox Marxism, law (including property law) is part of the "superstructure," and is based on economic relations. So consider G. A. Cohen's explication of the theory. Cohen argues that society is built on its economic base, which consists

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42. Whether or not *Marx himself* agrees with this theory is not relevant to this essay.

of people's rights over productive forces, but this is a problem for orthodox Marxism because *rights* are a legal concept and so part of the superstructure, not the base (Cohen 2000, 217-218). Cohen's solution is to replace all talk of 'rights' with *power*: "we can transform any phrase of the form 'the right to  $\Phi$ ' into a phrase which denotes a power by dropping the word 'right' and replacing it by the word 'power'" (219). Cohen's definition of power is *the ability to do something* (220). So to be precise, Cohen's theory is that the capitalist class *has power over* their property (capital), which supports their legal claims to own that property. There is a glaring weakness to this theory, though: where does their *power* come from? 'Power' is a social/political relationship, after all, not (purely) an economic one. While Cohen does say that "[b]ases need superstructures, and they get the superstructures they need because they need them" (233), this is not good enough. The problem is not that the economic relationship *needs* a political relationship, but that the economic relationship *just is* a political relationship.

To make this clearer, consider a contract between a landlord and a renter. Just as the capitalist owns the means of production, the landlord owns the land. However, while capitalists have the *power* to order their employees while on the job, in the contemporary US landlords do not typically order around their tenants while the tenant is on their land, at least not nearly to the same extent. This difference would seem very difficult to explain if power is based merely on ownership (legal or non-legal). My theory, however, can explain this difference more easily: there is a strong *social norm*, serving as a focal point, that landlords ought not to be able to micromanage their tenants. Because landlords expect that potential tenants will follow this focal point and refuse to rent an apartment if the landlord insists on ordering them around, they do not even try. On the other hand, if they *did* try, then tenants would expect other tenants to protest and

fight back, thus motivating *them* to protest and fight back as well (since they could expect to succeed once they have numbers on their side). Furthermore, an individual landlord who tries to start micromanaging their tenants could not count on other landlords to “have their back” since the focal point is against them, which makes it much less likely for the landlord to even try. Therefore, this focal point gives *power* to the tenants, even though the landlord owns the land.

Contrast this to managers and employees. In the firm, the focal point is the opposite: there is a strong social norm that managers *should* be able to order around their employees. Even if I personally would like to control my own working hours or elect my managers, because I cannot expect *anyone else* to hold out for such a contract, I do not have the leeway to demand one either—I do still need to work. From the other side, because a manager can reasonably expect *all other* managers to demand the right to order their employees (again, due to this being the focal point), they can be confident that they will lose few or no potential employees if they arrogate this right to themselves. In other words, the orthodox Marxist theory has it backwards. It is not true that the capitalist’s power rests on their relationship to the means of production; rather, their relationship to the means of production is based on their power—and this power derives from a focal point that favors them.

One may object to my above example by saying that the reason landlords (mostly) cannot order around their tenants is because of *laws* that protect tenants.<sup>43</sup> But as I have previously argued, laws are themselves a type of focal point, and conversely, if they conflict with a preexisting focal point it is difficult or impossible to enforce them. This is especially true for apartments, as (for example) the focal points favor owners of (relatively) cheap apartments who

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43. I thank Linda Alcoff for this objection and additionally for prompting the clarification I give later in this subsection.

do not keep up even basic cleanliness and health requirements—and so if they technically violate their city’s health code laws, they are often never punished.<sup>44</sup> This is not to say that laws do *nothing*, only to say that (for the most part) what efficacy they *do* have, they only have inasmuch as they influence the focal points people live by.

To further clarify my point, I am not saying that the law is more important than ownership of capital. I am not even saying that focal points are more important, strictly speaking, than the law. Rather, I am saying that, similar to what I argued vis-à-vis violence in the previous subsection, the importance of capital ownership and duly-passed laws is precisely in their ability *to influence focal points*. Laws influence focal points through being prominent and salient, thus coordinating people’s expectations since people believe others will likely obey the law.

(Sanctions, as I argued in Section 2, are used to maintain the law’s status as the focal point.)

Capital ownership influences focal points in a more complicated way, but much of it is because the owners of a company are almost always far less numerous than the employees, so it is much easier for them to cooperate with each other, especially if there is no preexisting focal point for the employees to unite behind. The point is not that violence, property ownership, and the law are unimportant, they are all vitally important—but they only have *power* to the extent that they influence societal focal points.

*(c) Technical Problems with McMahon’s Argument:* I mentioned in the Introduction that there were some technical issues with Christopher McMahon’s theory of “C-authority,” and here I will finally lay those out. First, I will briefly re-summarize his theory. McMahon delimits three types of authority (justified power): E-authority, which is based on expertise; P-authority, which is based on a promise of obedience; C-authority, which is justified because it enables people to

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44. For just one example of this, see Burks 2015.

cooperate by following the authority (McMahon 1994, 41-46). Managerial/Corporate authority cannot be P-authority, he argues, because it is justifiable to break a promise to accomplish a greater moral good, and if we let employees disobey their employers' orders whenever they conflict with the employee's personal moral beliefs, economic chaos would result (chapter 7). Therefore, managerial authority must be C-authority, which has more stringent requirements since one can only justifiably disobey C-authority if the "noncooperative outcome" (i.e., complete anarchy without any focal points) is morally superior to following the authority's orders (216). From here McMahon makes his "parallel case" argument, as he had previously argued that government is also C-authority (123), so managerial authority should be run democratically similar to governments, though he says the case for economic democracy is weaker than the one for governmental democracy (258-259). In addition to the objections I previously levied against McMahon's theory in the Introduction, now that I have established the basic principles of cooperation games, I can demonstrate two additional, more technical problems with it.

To understand the first problem, I first have to explain in some detail McMahon's *second* argument that managerial authority cannot be P-authority.<sup>45</sup> To begin with, I must introduce his concept of "collective rationality." Collective rationality, for McMahon, is the principle that one

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45. His first argument is that it would be morally permissible for an employee to disobey their employer's orders, while remaining in their position and collecting money, if they judge their orders to be evil enough (204-205). This argument is valid in itself, but as McMahon himself recognizes, taking pay from someone while breaking one's promise to follow them is unfair enough that the evil the employee prevents by disobeying orders must be very great (206). Remember that McMahon needs to argue that allowing employees to disobey their employers for moral reasons would cause substantial economic chaos in order to show that managerial authority cannot be P-authority. Since his first argument only justifies disobedience in rare circumstances, I do not think it suffices to prove his point. He needs the second one, which is why I will focus on that one.

should contribute to a collective project as long as the *total* (moral) value that project provides—once *everyone* contributes to it—exceeds the cost of one’s *individual* contribution (104).<sup>46</sup> As McMahan correctly notes, this means that we have reason to contribute to a project only if we can be assured that other people *really will* contribute to it as well, i.e., if we can successfully solve the assurance game I discussed in Chapter 3 (104-105). Based on this, McMahan argues the following:

“Suppose (1) that a group of employees is directed to produce an organizational action that some or all of them think will have a morally undesirable result with an incremental structure; (2) that by refraining together, those who regard the ordered action as having this undesirable result could effect a reduction in its badness large enough to justify, under the principle of collective rationality, each in refraining; and (3) that the assurance problem is solved within this group.” (217-218)

In other words, the group has been ordered to do something they think is evil; if they *all* refuse to carry out their orders, they can significantly reduce this evil impact; and they solve the assurance problem, so they know everyone will indeed refuse together. If all of these conditions hold, McMahan says, each employee is justified in refraining from carrying out their orders as long as the moral costs of doing so (here, those mainly consist in breaking their promise) outweigh the moral benefits received from preventing this evil result. In other words, if the employees can form a group large enough to prevent their evil orders from being carried out *altogether* (or at least to a significant extent), they are morally justified in doing so even though they promised to obey. Due to rampant disagreement about morality in a modern society, McMahan thinks that this would be a relatively frequent occurrence (220).

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46. The purpose of this principle is to avoid the issue that, in cases of collective goods, the value of my *individual* contribution might be quite low, even if the value of *everyone* contributing together is very large (103-104).

The problem with McMahon's argument lies in its third requirement, that the employees solve the assurance problem. McMahon seems to think this can be done fairly easily, just by the employees having a meeting (217). What he neglects is the fact that the assurance problem is not solved merely by talking. As we saw in Chapter 3, the assurance problem, as one kind of coordination game, is only solved if one option (here, everyone refusing to obey orders) is made *salient*, meaning that the employees have to *expect* the other employees in this group to refuse to obey orders. How likely is it that employees can form this expectation? After all, especially if too few employees collectively resist their employer's orders, they would likely all get fired; could I really expect anyone else to be willing to put their job on the line? This is not a rhetorical question, but we have to be careful in answering it. As McMahon says earlier, we must imagine that employers have no policing power, since we are trying to determine when they are justified in wielding that power at all (203). McMahon takes this to mean that, in the scenario we are imagining, it is possible for this group of employees to collectively resist, stop the evil project from happening (at least to some extent), *while* remaining on the job and receiving pay (219). But can he make this assumption?

Before answering, it will be helpful to recapitulate the dialectic thus far. McMahon is attempting to argue that if we understand managerial authority as P-authority, employees will often be justified in disobeying their orders. This is because, while people are normally obligated to keep their promises, it is sometimes permissible to break them if the moral need is great enough. The problem is that, acting alone, most employees cannot accomplish much good by disobeying a bad order—others will still follow it. They need to act in concert, i.e., they need to develop their own *focal point* of disobedience. However, employers can almost always stop this

from happening by threatening to fire any employee who disobeys; even if *I* am willing to lose my job on principle, I probably will not *expect* all my co-conspirators to feel the same, and our nascent focal point will be destroyed.<sup>47</sup> The question at hand is: inasmuch as we are trying to justify the power employers have over employees, can we assume they are able to threaten to fire workers in our thought experiment? The answer is, only if threatening to fire their employees *counts as power*.

This is where the fatal flaw of McMahon's argument I established in the Introduction, that it focuses strictly on authority/justified power instead of power *itself*, becomes relevant. While he does define authority as justified power, he does not appear to recognize that due to that, the difference between P- and C-*authority* is also a difference in *power* (indeed, his book does not contain a detailed account of power). If I have P-authority, I do not have power due to my control over focal points; I have power because the promiser feels a *moral obligation* to fulfill their promise.<sup>48</sup> On the other hand, those in C-authority do derive their power from focal points, in the way I have argued throughout this chapter. In this sense, a major aspect of employer power lies precisely in their ability to *prevent* their employees from developing their own focal points, including the fact that they can threaten to dismiss disobedient workers.

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47. One may argue that the employees could hold out if they trusted each other enough due to their mutual long-standing relationships. (I thank Carol Gould for this idea.) The problem with this argument from McMahon's perspective, though, is that McMahon needs the possibility of justified employee disobedience to be *rampant* in a P-authority world in order for his argument to go through. The number of firms where employees know and trust each other enough to risk getting fired for each other is relatively limited. Therefore, if McMahon's argument only works for those firms, his assertion that it would wreck the economy to let employees always disobey when it is morally justifiable for them to disobey becomes much less plausible.

48. Of course, oftentimes the law also ensures the promiser must honor their promise, vis-à-vis business contracts. Arguably the norms behind promising also count as focal points that empower the promisee. But these concerns do not change the fact that the promisee lacks the ability to *directly* set the focal points for the promiser, which makes their power fundamentally different from those who can determine focal points.

Now, to review, McMahon's argument under discussion is that employer authority must be C-authority because, if it were P-authority, employees could justly disobey orders extremely frequently (and this would lead to negative economic consequences). As part of this argument, he assumes that employers cannot threaten to fire their employees, as firing employees is part of their power that we are currently trying to justify. But threatening to fire one's employees is only an exercise of power when one is a C-authority. Consider: If an employer is a P-authority, it would be an extreme stretch at best to say that they are exercising power by firing their disobedient workers. Rather, they are simply exercising their right not to uphold a contract that the other party broke already. This is because, again, "P-power" is not based in focal points, but rather in the promiser's moral obligation to fulfill their promise. So firing one's employees is only an example of power under the "C-power" view, i.e. the focal point view I have defended in this chapter, since dismissal and the threat of dismissal prevent employees from developing their own focal points. Therefore, when McMahon assumes away the employer's ability to control the focal points their employees operate under (in order to determine if that power is justified), he is already assuming that managerial power is "C-power." But the purpose of his argument is precisely to *prove* that managers are C-authorities. In other words, he is assuming precisely what he is trying to prove, making his argument invalidly circular. By contrast, I have directly argued for the view that (political and economic) power is based on the ability to facilitate cooperation, thus avoiding circularity.

The second problem with McMahon's argument is the last step, when he argues that contrary to P-authority, grounding managerial authority in *C-authority* explains why employees should obey orders they personally disagree with. McMahon says that if we let employees form

groups to ruin any managerial projects they disagree with, “all will usually judge the results worse, in light of their own conceptions of the moral good, than if they all complied” (233). This is because the result would be everyone doing “the best he can by his own lights,” and society would be unable to reap the benefits of economic cooperation (234) of the sort I laid out in Chapter 2 and Section 1 above. But if we justify managerial authority as C-authority, the situation is different. C-authority, recall, is justified because it enables people to cooperate, which is better for everyone than universal non-cooperation. The only time it is justified to disobey C-authority, McMahan says, is when *the noncooperative outcome* is judged to be preferable to whatever the manager ordered, which is rare (236).

But is it that rare? As McMahan says, there are two ways to understand the noncooperative outcome: a total lack of cooperation/focal points—which indeed, almost no one would want—or merely the end of the *one particular project* that the employee disagrees with (*ibid*). But this second understanding, that the alternative to obeying one’s employer is to sabotage the one project I disagree with, but *aside from that* cooperation proceeds as before, is precisely the option McMahan argued would lead to the breakdown of P-authority. Indeed, the possibility of joining with one’s fellow like-minded workers to sabotage managerial orders we disagree with appears to be morally permissible *regardless* of whether we understand managerial authority as P or C. The justification of C-authority is merely that it enables *some sort* of cooperation, and if we continue cooperating in general despite disobeying our employer’s orders in specific cases, C-authority will remain. McMahan’s response to this concern is that, even if C-authority is intermittent, it is still more reliable than P-authority because “[a] promise to obey will sometimes fail to justify an individual in contributing even to a cooperative project the

realization of which he judges preferable to its nonrealization—that is, it will sometimes allow free riding in such a case” (*ibid*). However, as I briefly summarized toward the beginning of this subsection, McMahon’s concept of “collective rationality” is supposed to prevent free-riding, as it forces people to contribute to a collective project as long as its total value exceeds the cost of one’s individual contribution. So McMahon’s response here only makes sense if we assume that collective rationality *only* applies to C-authority and not P-authority. But according to McMahon, collective rationality “identifies what *there is* good reason for agents to do, regardless of their beliefs about the situation they are in” (106), which seems to apply to both C- and P-authority. While it is true that collective rationality operates in situations where people are contributing to a collective effort (104), a firm is presumably a collective effort even if the employer is a P-authority. For these reasons, I see no need to limit collective rationality merely to cases where one is under the purview of C-authority.

The problems with McMahon’s argument here can be further seen if we consider the possibility that the employees, by forming their own group or union, can form an *alternative* focal point to their employer and thus enable cooperation (by following this new focal point) while still disobeying their orders. First, McMahon worries that employees trying to collectively resist would have difficulty solving the assurance problem (250), which appears to contradict his earlier assumption that solving the assurance problem is easy. Setting that aside, McMahon does say it is theoretically possible for an employee union to “supplant management as the legitimate C-authority governing an organization,” but this can only happen in the unlikely event that “all employees found the union’s policies preferable to management’s” (251). It is much more likely that there exists massive disagreement about which policies are best, in which case,

“management could often claim legitimacy on the ground that the directive power at its disposal enabled it to be more effective than a union in preventing the chaos and mutual thwarting of projects that would result if subgroups holding different moral views went their own way” (*ibid*).

This argument, though, ignores the insights provided by cooperation games and focal points—namely, *agreement* is unnecessary. As we saw in Chapter 3, people do not follow focal points because they agree with them, but because they *expect* everyone else to follow them. Thus, the employee union need not convince anyone they are right; they need only to make their own proposals *more salient* than management’s. To be sure, it is still difficult to make “follow the union’s orders” more salient than “follow the employer’s orders.” But they do not need to do that. All they need to do is make “follow the employer’s orders *unless* a significant subset of employees organizes against it” salient. This focal point would work perfectly well to facilitate cooperation. The reason I specify this focal point is that it is *precisely* what McMahan says could happen in a P-authority firm—i.e., it does not appear that C-authority and P-authority are significantly different regarding the frequency with which they allow dissent. McMahan may respond that “follow the employer’s orders” is a *superior focal point* to “follow the employer’s orders unless a significant subset of employees organizes against it,” as the latter would lead to too much disagreement and inefficiency. But McMahan’s arguments are not based on this sort of “objective” moral judgment. His arguments are based on the number of circumstances in which an individual employee, *given* their personal moral beliefs, would be justified in disobeying orders. So he must argue that *most ordinary people* would value “follow the employer’s orders” above “follow orders unless a significant subset organizes against them.” It is not obvious to me

that they do, and more importantly, it is not desirable for a theory of economic democracy to be based on such complicated, questionable psychological premises.

In general, we can see that McMahon runs into issues because he does not appear to sufficiently recognize that different types of *authority* carry with them different types of *power*. If I am in E-authority, my power derives from the *respect* other people hold for my expertise. If I am in P-authority, my power derives from the *moral obligation* the promiser feels to fulfill their promise and legal sanctions against breaking one's contract. If I am in C-authority, finally, my power derives from my ability to set focal points in the way I have argued throughout this chapter. By ignoring this, McMahon's arguments fall into trouble, either by illegitimately assuming employer authority derives from "C-power" while he is trying to prove that they are a C-authority, thus engaging in circular logic, or by focusing overmuch on people's personal moral beliefs instead of the focal points they are compelled to follow.

(d) *Steven Lukes and Objective Interests*: I briefly summarized Steven Lukes's "three-dimensional" theory of power in Chapter 1. Here, I will discuss it in more detail, to show that my theory addresses the problems Lukes is trying to address while avoiding the downsides he runs into. Before I begin, I should note that Lukes offers two different theories in the second edition of *Power, A Radical View*. In the first edition, he defended his "three-dimensional view" as the correct way to conceptualize power in general. But he says in the second edition that it is incorrect to *define* power according to his three-dimensional view, and what his view really does is offer a theory of how people consent or adapt to domination (Lukes 2005, 12-13). As these are different theories, I will consider them separately, calling them "early Lukes" and "later Lukes" respectively.

Early Lukes begins by contrasting his own theory of power with previous theories, which he calls the “one-dimensional view” and the “two-dimensional view.” The one-dimensional view is that *A* has power over *B* inasmuch as *A* can get *B* to do something they would not otherwise do (16), while the two-dimensional view adds to this the idea that the powerful can *control the agenda* by barring some issues from coming up for debate in the first place (22-23). Lukes levies three criticisms of the two-dimensional view (25-28). First, it limits itself to concrete, observable, individual behavior, but systemic biases and inequalities are often caused by collective behavior or structural factors that cannot be reduced to individuals. Second, it depends on observable *conflict*, neglecting the ability of the powerful to influence the very wants and desires of the powerless. Third, it assumes that someone is only being dominated if they have explicit grievances that are not being addressed, but often people have vague and inarticulate grievances, and moreover, power often establishes itself precisely by convincing the powerless that their subjection is good and/or in the natural order of things. To solve these problems, Lukes introduces his “third dimension”: the idea that people have *objective interests* that they may not be aware of due to their domination. Thus, he says, “*A* exercises power over *B* when *A* affects *B* in a manner contrary to *B*’s interests” (37).

Later Lukes, by contrast, offers several criticisms of his earlier theory, including that it assumes power must be *exercised* when power is really a *capacity* and that it ignores the ways power “can be productive, transformative, authoritative and compatible with dignity” (109). He says that his three-dimensional conception, rather than a theory of power in general, is specifically about how the powerful secure “compliance to domination” (*ibid*). In other words, Lukes is saying that even if people believe their current political regime is morally right, we can

say they are in actuality being dominated if their *objective interests* are being harmed by those in power. These “real interests,” as Lukes calls them, derive from one’s moral theory, which means one’s view of power depends on one’s normative beliefs (or “explanatory framework”), a consequence Lukes accepts (148-149). While this is similar to the much-maligned Marxist notion of “false consciousness,” Lukes asserts that there are clearly many cases when people are systematically misled about their interests, and additionally, most cases of “false consciousness” are only limited or partial—people usually have some sense of the truth, even if they also believe lies (149-150).

I will begin by discussing early Lukes. When engaging in a conceptual argument, such as what ‘power’ is, we often fall into a semantic dispute, which I would like to avoid. The matter at hand here is not what the English word ‘power’ means, but how we can explain the phenomenon of people obeying other people’s orders. Early Lukes’s theory fails to be an adequate explanation for *that*, for precisely the same reason as Thrasymachus’s original theory of justice in Plato’s *Republic*. Thrasymachus originally defines justice as “the advantage of the stronger” (338c), the stronger being the established rulers of any given city (338d-e), so it is just to obey one’s rulers (339b). But as Socrates points out, rulers are fallible and sometimes pass laws that are disadvantageous to themselves (339c), and so by ‘justly’ obeying those laws, the weaker are in fact doing “what is disadvantageous to the stronger” (339e), a clear contradiction for Thrasymachus.<sup>49</sup> While early Lukes is talking about power, not justice, his theory is open to the same objection. Sometimes, those in power (usually mistakenly) give orders or pass laws that are *harmful* to their own real, objective interests and *helpful* to the real, objective interests of the

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49. Thrasymachus attempts to save his theory by asserting that rulers *qua* rulers never make mistakes (341a), but that does not concern me here.

powerless. According to early Lukes's theory, then, the powerful would not actually be exercising power (or obtaining consent to domination) at those times. But these "mistaken" laws work in precisely the same way as the laws that are to the benefit of the powerful: citizens still obey them, are punished if they do not, etc. While we can certainly draw a distinction between laws that benefit the powerful and laws that (accidentally) harm them, it seems ridiculous to say that the former are examples of power and the latter are not.

Perhaps early Lukes could argue that these "helpful" laws are examples of power in the 1- or 2-dimensional sense, just not in the 3-dimensional one.<sup>50</sup> There are two problems with this possible response. First, I do not get the impression that early Lukes is offering three equally valid views of power; rather, I interpret him as saying that his 3-dimensional view is a *superior theory* to the other two.<sup>51</sup> But even if he can legitimately appeal to the other two senses of power, there remains a problem. A government ordering its citizens to do something that benefits them, and that government ordering its citizens to do something that harms them, happen through the same procedures, with the same enforcement mechanisms, etc. Asserting that the former is power in one sense, while the latter is power in a completely different sense, seems unjustifiably *ad hoc*.<sup>52</sup> By contrast, the focal point theory I am proposing avoids this issue by separating *power*

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50. I thank Carol Gould for this idea.

51. For example, early Lukes says, "I have defined the concept of power by saying that *A* exercises power over *B* when *A* affects *B* in a manner contrary to *B*'s interests" (37). This suggests that, for early Lukes, the three-dimensional view just *is* the correct definition of power.

52. Again, I do not want to engage in a semantic debate here. Lukes can define 'power' however he wants. The question is whether his definition adequately illuminates the real-world phenomenon at hand that governments give orders (laws) and people (generally) follow them. I do not see a fundamental conceptual difference between the government ordering its citizens to do something beneficial to themselves and ordering its citizens to do something harmful to themselves.

from whose *interests* are being helped or harmed. All focal points have power, regardless of whose interests they benefit.

The focal point theory is also able to avoid the two downsides of early Lukes's theory that he himself admits to. For early Lukes (as well as the theories he criticizes), any statement that *A* has power over *B* implies a related counterfactual: if not for *A*, *B* would have acted otherwise (44). The problem is that, in the absence of concrete, observable conflict, it is often extremely difficult to justify the relevant counterfactual. When there is not clear conflict between *A* and *B*, how can we justify the claim that were it not for *A*'s actions (and the other sufficient conditions for their power), *B* would do or believe something different? (*ibid*) On what basis can we say that, while everyone in a community believes a certain thing, were it not for a powerful individual or group they would in fact believe something else—i.e., to use Lukes's terms, that a seemingly “genuine” consensus is in fact forcibly imposed?<sup>53</sup> (49) Second, we frequently have trouble identifying the *mechanisms* of power when it involves inaction, is exercised unconsciously, or is exercised by collectives, all of which early Lukes's theory considers to be types of power (52). While early Lukes has to provide arguments for why these difficulties can (at least sometimes) be solved, my theory sidesteps them entirely. To be sure, we cannot directly observe focal points because they are not physical objects, strictly speaking. But we can ascertain their *impact*, since they exist whenever people cooperate. For example, recall from the previous chapter the case of Levy Azor, a random Haitian man who successfully directed traffic after an earthquake rendered traffic lights nonfunctional. We cannot directly perceive the focal point that caused the drivers to obey his directives, but we *can* see that (1) there was a need to cooperate,

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53. Perhaps there are independent reasons to want to answer this question. But at the least, if a theory of power can avoid having to answer this question, that gives it an advantage over theories that must deal with this difficult subject.

(2) people obeyed Azor's directions, and (3) as a result they cooperated. As such, my theory does not depend on any counterfactuals, and the mechanisms by which focal points operate can (almost) always be discovered because focal points work by facilitating cooperation, and cooperation is a concrete, observable phenomenon.<sup>54</sup>

What about the objections Lukes levies against the one- and two-dimensional theories of power? My theory does not fall victim to those, either. Recall his objections: (i) the other theories neglect systemic biases and structural factors; (ii) they ignore how the powerful influence the beliefs and desires of the powerless; (iii) they assume power only exists when there are explicit grievances or conflicts.

(i) As I have emphasized several times in this chapter and the previous one, focal points are not a matter of individual choice; rather, they determine what choices individuals make in the first place, the same as the structural factors Lukes is concerned with.<sup>55</sup>

(ii) I believe that Lukes is getting the causal order wrong regarding power and belief/desire formation, or at least that his account is incomplete. I propose that often, it is not that the many are persuaded/influenced to believe the few ought to be in power, and due to that the powerful gain or maintain power. Rather, it is *because* people obey the powerful (follow the focal points) that they often come to believe their obedience to be morally required. Consider: Focal points work regardless of whether people desire or even like them. All they require is that people prefer the focal point to total noncooperation. So one need not believe a focal point is morally correct in order to follow it. However, our *behavior* often influences our *beliefs*. If we

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54. I thank Carol Gould for this objection.

55. I am inclined to believe that focal points actually provide the best explanation for what precisely systemic power or structural domination are in the first place, but that is beyond the scope of this essay.

constantly engage in a particular action, we often come to believe that action to be right, in order to reduce cognitive dissonance. Therefore, if people follow a certain focal point consistently, particularly if it is the only thing they have ever known, it seems plausible to assert that they may come to believe the focal point is valuable in and of itself. In other words, at least sometimes, rulers do not secure their power by obtaining consent to domination; instead, they (or rather, the focal points that empower them) secure consent to domination *because* they are in power and thus salient.

(iii) Finally, unlike the one- and two-dimensional views, my theory is capable of understanding that power may exist even without overt conflict or explicit grievances. Indeed, because focal points work by enabling cooperation, they are at their most influential *precisely when* everyone outwardly conforms to them without complaint. It is only when the focal point starts breaking down that concrete, observable conflict takes place.

Now I will move on to later Lukes, who offers not a theory of power *per se*, but specifically a theory of how the powerful secure consent to domination. By influencing their beliefs and desires, he suggests, the powerful cause the powerless to be *mistaken about* what is in their own best interest, and they come to confuse the interests of the powerful with their own interests. Strictly speaking, then, the focal point theory and later Lukes's theory are not necessarily in conflict, because they are on different subjects. But one could object that the focal point theory is not able to adequately account for this phenomenon of obtaining "consent to domination" via making people be mistaken about their objective interests that later Lukes is concerned with.<sup>56</sup> How can the theory I propose explain this?

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56. I thank Carol Gould for this idea.

First, this essay is neutral on the question of whether or not there are such things as “objective interests.” That said, I will suppose for the sake of argument that there are. Now, I am assuming that it is in our best interest to cooperate with each other and that people (mostly) do not act against that interest. However, cooperation is not the only interest people have. There are other interests as well, such as the ability to support oneself and one’s family, or being treated with dignity. If following the focal points results in *these* interests being damaged, then the focal points will compel us to act against (some of) our objective interests for the sake of avoiding a total breakdown in cooperation. The reason we may do this is because, due to the focal point, we *expect* (most) everyone else to act against their own best interest, which incentivizes us to do the same in order to avoid the worst outcome of all, total non-cooperation. The way to avoid this would be establishing a *different* focal point that is in the interests of most people, but changing focal points (or creating new ones) is usually very difficult, especially for those who lack power. In sum, focal points may compel the powerless to act against their own interest and for the benefit of those in power because even *that* is better than not cooperating at all.

So far, though, I have only discussed how focal points may cause people to *act* against their own interests. What about Lukes’s assertion that the powerful often make people *believe* incorrect things about what their interests are, similar to the Marxist notion of “false consciousness”? The focal point theory can explain this as well. As I argued above, if someone engages in the same behavior for a long time, they often end up *changing* their beliefs in order to retroactively justify their behavior. In other words, if people follow the same focal point for a long time, they may come to believe that the focal point (e.g. “obey this person’s orders”) is morally right *as a result of* obeying it. Indeed, this may even be a better explanation than the one

Lukes gives. It is possible that people *start out* knowing what their objective interests are but eventually come to adopt the powerful's (false) propaganda instead. The focal point theory can explain how this happens, through the argument I just gave, but it is not clear that Lukes can give a similarly plausible explanation. In sum, then, the focal point theory is a superior theory of power to early Lukes's theory, and it can explain how the powerful secure consent to domination at least as well as later Lukes's theory.

(e) *Flathman and Shared Values*: The final theory I will discuss here is one that may superficially seem similar to my own: that power relies upon the fact that there are common beliefs and/or values among the citizenry.<sup>57</sup> Richard E. Flathman puts it this way (ignore for now that he says 'authority' and not 'power'):

“In order for there to be rules that carry and bestow *authority* . . . there must be values and beliefs that have *authoritative* standing among the preponderance of those persons who subscribe to the authority of the rules. These values and beliefs do not take their standing as authoritative from adoption or promulgation by any agent or agency possessed of authority. Rather, the acceptance (however it came or comes about), by a preponderance of subscribers to authority, of the values and beliefs as authoritative is one of the conditions of authority. It is, for instance, in terms of authoritative values and beliefs that both authority as such and a practice of authority with a particular shape are acceptable (or not) as features of a society or association.” (Flathman 1980, 6-7)

In other words, for an entity to hold political authority in a territory, the citizens need to, at a minimum, believe both that authority is a *good thing* and that it is acceptable for that entity to have such authority. These common beliefs and values, shared by the citizenry, Flathman calls the *authoritative*. Similarly, he asserts that *power* depends upon the authoritative, for three reasons. First, the individuals in power relationships are who they are as people partly due to the authoritative beliefs and values of their society; second, depending on its content, the

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57. This may be Hannah Arendt's theory, which I briefly discussed in Chapter 1, since she says power rests on "opinion."

authoritative will make it harder or easier for individuals to wield power in certain ways, depending on if they match or violate the common values; third, people often have power because they have a certain status or position, given to them by society on the basis of the authoritative (149-150). On first glance, this seems quite similar to the theory I am proposing: in both cases, the power of those at the top is (mostly) dependent upon the people at the bottom following them, instead of the other way around. However, there is a large difference: Flathman's "the authoritative" consists of the *beliefs* and *values* of the community. By contrast, as I argued in Chapter 3 Section 4, focal points are a *process* whereby some particular way to achieve a collective goal (i.e., a solution to a coordination problem) is salient or prominent, which makes people expect others to follow it, which causes people to *actually* follow it in their behavior, which makes the solution even more prominent, and so on.

Why is this difference important? I believe that founding a theory of power on focal points, instead of on beliefs and values, is superior for both theoretical and practical/normative reasons. First, as a theory, it is more plausible to assert that power derives from (expectations of) *actions* and not *beliefs* per se. After all, power exists in the world—in the relationships between persons—and not in people's heads. Therefore, there is a tighter connection between power and focal points, a process that links together common *behavior* and communal expectations than there is between power and beliefs/values, which exist in people's heads. This is not to suggest that those common beliefs and values are meaningless, though Flathman may be exaggerating the extent to which most common beliefs/values are *truly* shared in a given society (they are often limited to a subset of people). Rather, focal points also do a better job of explaining those common values that do exist. Note the parenthetical in Flathman's passage I quoted above: "the

acceptance (however it came or comes about), by a preponderance of subscribers to authority, of the values and beliefs as authoritative.” Flathman takes the existence of authoritative beliefs and values merely as a given. Not only does this make it unclear how authoritative values *change* under his account (a point I will discuss in detail shortly), but it is also unclear just how and why communities come to obtain such common values in the first place. My theory provides an answer to this. Focal points, as I have discussed, are necessary for societal cooperation, which provides great benefits both to individuals and to the whole society. Thus, either because they can see those benefits, because (as I argued in the previous subsection) they simply do not think to question common practices that have existed for years, or because their actions end up influencing their beliefs, many or most members of a society often (though certainly not always) believe that its focal points are good and valuable. In other words, focal points may be the main way acceptance of the authoritative comes about.

Flathman may object by levying against the focal point theory the same objection he makes to Lukes’s theory of power that I discussed in the previous subsection. This is Flathman’s summary of Lukes’s view (recall that A is an individual who wields power over B):

“The evidence that power was at work is that, objectively speaking, the interests of one class (category?) of people (which the analyst has identified) were well served by existing arrangements, policies, or whatever; the interests of another class of people (identified, once again, by the analyst) were badly served by them. . . . [T]here need be no evidence that either A or B has acted ‘consciously’ to bring about the result in question . . . and hence no need for evidence that A has intentionally threatened B with Y in order to get him to do X or that B has knowingly or intentionally responded to a threat-supported directive from A.” (135)

It is specifically the lack of a conscious or intentional requirement that Flathman objects to.<sup>58</sup> He asserts that a theory of power is not satisfactory if it makes us unable to directly blame those who wield power, assuming that we can only fully blame someone if they *intended* the acts we are blaming them for (137). In other words, Flathman is saying that we cannot blame someone for something they did unconsciously, so if Lukes is saying power can be wielded unconsciously, we cannot coherently blame them for that abuse of power. Lukes attempts to address this by arguing that we can only call something an exercise of power if the person or people doing the exercising *could have done differently*, or at least, that they *could have known* that they could have done differently, i.e., that they acted negligently (137-138; also see Lukes 2005, 57). But this is not enough for Flathman, who argues both that causing harm intentionally is worse than causing harm negligently and that our conception of ‘power’ should capture this distinction by only applying to intentional acts (Flathman 1980, 142). Flathman could levy a similar objection to my theory. I argue that individuals’ (political) power is based on their ability to determine society’s focal points, but surely the vast majority of those in power do not *intend* to modify focal points (most of them, presumably, do not even know what focal points are). I even suggest that focal points, despite being abstract rules that completely lack intentions, have a sort of power. While Flathman agrees that people can be “held in the warm but stifling embrace of a system of beliefs and values that they [accept] implicitly,” he claims that Lukes’s assertion that such people are subjects of *power* because their interests are ill-served actually “deflects attention from the seriousness of the plight of the disadvantaged” (167). This is because Flathman appears to suggest that ‘power’ is an antagonistic notion that involves force and the threat of force, so if a

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58. He also disagrees with the notion of “objective interests,” but that issue is much less relevant to the concerns of this essay. The only interest I assume is that people want to cooperate, and I need not believe that to be “objective.”

regime is understood as a regime of *power* people can recognize and resist it (166). On the other hand, in the “false consciousness” case that Lukes is concerned with, the possibility of recognizing and resisting the dominant ideological regime is highly curtailed or absent. Thus, Flathman says, by classifying the latter as a type of ‘power’ Lukes is erasing a highly significant distinction. Am I open to the same objection?

It is certainly true that, like Lukes’s theory, the one I advance denies that intentionality is a requirement of power. But without necessarily taking a stance on the *accuracy* of Flathman’s critique, my focal point approach has ways to sidestep it. The problem that I see with Lukes’s theory in this regard is that he assumes power in effect *resides* or *coheres* in the powerful people themselves. By contrast, the focal point theory asserts that power is ultimately based on *separate entities* from the powerful, namely focal points. And there is no reason to blame any individual or group for focal points. While focal points are (in a sense) the product of human activity, they are not *themselves* (individual, intentional) actions (rather, they *influence* human action) and so are not the kinds of entities people can be blamed for in the first place. Therefore, although we can morally judge certain focal points as being good or bad, we cannot coherently *blame* them for whatever bad impacts they may have. So while focal points (in a sense) hold power despite lacking intentionality, I need not assert they should be *blamed* for anything.

Powerful humans, on the other hand, *can* be blamed. The question of just when and how we should blame powerful individuals is complicated; here, I will only indicate the ways my focal point theory can approach this question. When powerful individuals are at fault, the problem is not their power (i.e., their ability to interpret and determine focal points) strictly speaking, but how they *use* their power (i.e., which focal points they *in fact* create or change). In

other words, we should not blame them for the fact that *they are in power*—that is not their fault<sup>59</sup>—rather, we should blame them because of *what they do with* their power. Specifically, if they create or maintain bad/damaging focal points that hurt other people, that is their fault and we can rightfully blame them for it. It is true that powerful individuals almost never directly *intend* to change focal points. But a swordsman does not necessarily intend for their sword to (for example) sever their opponent’s carotid artery; they merely intend to kill their opponent. Despite this, we still think we can blame a swordsman if they murder someone by severing their carotid artery. In other words, what matters is not that A intends *every single event* that leads to B’s harm, they only need to intend the end result that B is harmed. Therefore, even if a powerful person does not intend to change the focal points (because they do not know what focal points are), they do often intend the *end result* of so changing them, e.g., starting a war or raising taxes to an injurious level. Therefore, if a powerful person intends some harm by their orders, then even if they do not understand precisely what their power consists in, they can still justifiably be blamed for that harm.

That being said, I would also like to argue that Flathman overestimates the importance of intentionality in attaching blame to powerful figures. This is most clear when we look at the economic sphere. CEOs surely have a lot of power—their decisions can have massive impacts on

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59. To clarify my claim here: It is true that many people intentionally seek power. But they are only successful inasmuch as the reigning focal point regime—which they did not create—favors them. Even if they attain power because the focal points change, that change cannot be attributed to *them*, but rather to the collective behavior of a great many people, collective behavior that (like any cooperative endeavor) was only possible due to other focal points. Therefore, even if I intentionally seek power, I cannot be blamed for the fact that I succeed. Of course, I could be blamed for any evils I personally committed in order to seize power. Perhaps I could also be blamed because harboring a desire for domination is itself unethical. But the fact that I am in power is not my fault, it is the fault of the focal points that empower me, and focal points cannot coherently be blamed. (I thank Carol Gould for encouraging these clarifications.)

large numbers of people, even entire nations. But can we really say that when they take a certain action, they always “could have done otherwise”? In a capitalist economy, every firm seeks to maximize its profits. Even if an individual CEO personally values other things (e.g. their employees’ well-being), if they do not always act to maximize profit—or at least make a large amount of profit—other companies will take over their market share and they will go out of business, if their investors do not revolt first. And even if they *do* fall on their sword for the sake of their principles, nothing much will change society-wide, as their conquerors will proceed to do all the harmful actions they nobly refused to. This situation is quite common even in other spheres: the American President is very powerful, but they still have to acquiesce to other powerful factions (not just Congress but also interest groups, rich donors, etc.) or face severe backlash that would render them unable to accomplish much good. For these reasons, a theory that requires that I *intend* to cause harm, and/or that I could have done otherwise, to deserve blame, will actually fail to adequately blame a large number of powerful individuals and groups. What we need instead is a theory that recognizes the primary force of larger societal power structures, while still finding a way to blame the individual people who benefit from and perpetuate those structures. This is far beyond the scope of my present essay, but the upshot is that a lack of intentionality is a *benefit* of a theory of power, not a drawback.

Those are my view’s theoretical advantages. The other advantage the focal point theory holds is that it avoids two practical/normative issues that Flathman’s theory runs into and that he only semi-successfully resolves. The first of these is that Flathman’s theory seems to necessitate a certain subjectivism. (This paragraph will focus on “authority,” but that is fine, as Flathman’s definition of authority is merely “justified power.”) If Flathman were to apply his personal

normative theory of authority consistently, the vast majority of societies will fail to have true “authority” as they do not meet his standards for justified power (227). Flathman finds this ridiculous. To find out if (say) Ivan the Terrible had authority, we need to consult the standards of *his* society, not our own (227-228). While he does reject the radical subjectivist view that authority is *merely* whatever the members of a society say it is and outsiders have no input, he still thinks that any critique of a practice of authority must limit itself to the beliefs and values authoritative in that society; he just thinks members of a society should listen to “cogent, well-grounded challenge[s] and criticism[s] by nonsubscribers” (234-235). Again, this position follows from Flathman’s view that authority derives from shared *beliefs* and *values*, which means that ultimately, someone is an authority just in case their society believes them to be (231).

By doing this, though, Flathman needlessly conflates *de facto* authority—someone whom the populace *believes* deserves to be in power—with *de jure* authority, someone who *actually* deserves to be in power. Even a moral relativist who thinks ultimately the latter just collapses into the former should recognize that these are conceptually distinct. In any event, if we want to say that a dictator’s authority is illegitimate even if a majority of their populace believes otherwise, we need to distinguish them. The focal point theory can do this because it conceptually distinguishes between (a) power, (b) focal points, and (c) beliefs and values. An entity A has *power* if they (via a focal point) have the ability to determine some of their society’s focal points. They have *de facto* authority if the people in their society believe they *should* have power. And they have *de jure* authority if, normatively speaking, they are *in fact* justified in holding power. By cleanly separating these concepts, I am not only able to support a distinction

between *de facto* and *de jure* authority, but I also provide a way for us to criticize flagrant abuses of power, regardless of whether or not a majority of their (or our) society agrees with us.

The second practical/normative problem that the focal point theory resolves is that, under Flathman's account, it seems very difficult for people to *question* their authoritative values. After all, the authoritative is the basis for any coherent claim to authority in that society; as such, it would seem impossible for members of that society to accept challenges to it. Or, as Flathman puts it, "[i]f 'the authoritative' has the characteristics (the standing) that we have attributed to it, dissent from it would appear to be a psychological and perhaps a conceptual impossibility. In Wittgensteinian terms, if the authoritative is the foundation, the bedrock, of a practice of authority, *must* it not turn back every attempt to question it?" (205) Flathman's response is that relatively 'abstract' rules or principles such as a commitment to the rule of law and due process provide resources for people to question the authoritative (208). However, this is unsatisfactory, as these 'formal' principles are *themselves* part of the authoritative. Flathman argues that despite this, "the comparatively formal character of the rule-of-law principle has sometimes allowed it to play a distinctive role" (209), but this is not obvious. What is really going on here is that people are using one set of authoritative beliefs/values to question another set, and I do not see why it makes any difference that one set is relatively formal (certainly, there are many times when a society has decided that concrete values outweigh abstract ones). So all Flathman is saying is that part of the authoritative can critique another part, which is certainly true, but that does not provide a way for something that is not *already* a value to "break into" the authoritative.

The focal point theory, on the other hand, is able to provide such a way since, again, it conceptually separates power, focal points, and beliefs/values. While I stated earlier that focal

points likely *influence* people's values, they need not influence them wholesale. It is entirely possible, and indeed often happens, for me to follow a focal point even if I believe we *should* all abide by a different focal point. In other words, a society's beliefs and values can change while its focal points (and thereby its power structures) remain the same. If that happens, then through discussion and common action, they are able to critique the existing focal points and to start developing new ones, and in that way they begin the process of overturning the status quo and replacing it with something new. This is not to claim that such change is easy. Quite the contrary, deliberately changing our focal points is difficult, and it is likely especially difficult in the political and economic realms. Small groups may be able to change their focal points through discussion, since as I said in the previous chapter, communication itself is often a focal point.<sup>60</sup> But for the large groups that comprise modern states and economies, where most members are strangers to each other, it is extremely difficult for an amount of members sufficient to substantively change the salience of a focal point to communicate with each other. Furthermore, the society-wide communication mechanisms that do exist are usually controlled by those already empowered by the focal points—after all, they are the ones who are most “prominent” or salient. Despite these difficulties, however, political and economic focal points have often changed throughout history, and I suggest that their change is due to the fact that people can internally question their own focal points, and that has the *potential* to lead to external resistance.

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60. This process is often difficult even for relatively small groups, though. First, as I argued in the previous chapter, there need to be “process focal points” that guide discussion (how long each person gets to speak, etc), and those may foreclose certain attempts to alter (other) focal points. Second, communication still has to compete with the long precedent of people following the status quo focal point(s), and there is no guarantee that it will be more prominent or salient. There may be other complicating factors as well.

There is much more to say regarding this important topic, but it is not directly relevant to this essay, so I will say no more about it here.

#### **Section 4: Final Step of the Argument**

So far, I have attempted to show that both economic and political power rest on focal points: leaders have power because they serve as the solution to coordination games, inasmuch as the only way their followers can cooperate with *each other* is if they obey the leader's orders. The question now is, how should we decide who gets to be the focal point? This essay is not going to answer that question directly. Rather, my argument is that *whichever* answer one gives for a government, the same answer must be given for a company. So for example, if democracy is the only legitimate form of government, as almost every Western political theorist has insisted for centuries, then democracy is also the only legitimate form a company can take.

Why does this follow? As I have emphasized, in order to coordinate people's actions, it does not matter *which* focal point exists, all that matters is that *some* focal point exists (though again, some focal points may be preferable on other grounds, e.g. maximizing total utility). Therefore, in order to coordinate people's actions in both the economic and political realms, we just need *a* focal point of some sort, and for reasons Calvert and I argued in Section 2, this often means a leader (or group of leaders). In order to coordinate people's behavior, it does not matter *which* leader(s) we have, as long as everyone recognizes them *as* a focal point, which need not require them to agree with or even like the leader(s). The justification for choosing any particular person or group as the leader, then, cannot be that they enable coordination, as anyone can do that. But enabling coordination is the main purpose and function of a leader. On what basis can we justify a particular person or group to become the leader, then? The easiest solution is this:

For a group to exist at all, they need to have *some* focal point. So if our major concern is merely to preserve the ability to cooperate, the best way is to just stick with whatever focal point we have already. (This is likely one source of the remarkable endurance of tradition, incidentally.) Therefore, if all we are interested in is maintaining cooperation, there is no need to ask which focal points are good and which are bad.

Nevertheless, people *do* ask that question, and attempt to answer it. Almost all contemporary philosophers believe that there needs to be some theoretical, abstract *justification* for choosing one person as our focal point and not another. But since political and economic focal points exist for the same purpose and accomplish the same goal, there is no obvious reason why this justification should be different in the two realms. Therefore, whichever process one believes should be used to decide the *political* focal point should also be the process that one believes is right to use to decide the *economic* focal point. Specifically, if a political leader is only justified in having power when they were voted in by their citizens, an economic leader (manager, employer) is only justified in having power over their employees if *they* were voted in by those employees.

As I argued in the Introduction, the major obstacle theorists of economic democracy have stumbled over is the following objection: governments rule by force while firms rule by consent/contract, which is why democracy is necessary in the former but not the latter. My argument has already disproven this objection. Governments do not, in fact, rule by force and firms do not rule by consent; they both rule via focal points. Therefore, one cannot draw a distinction between political power and corporate power on the basis of their *source*, because they have the same source. In the next chapter, I will consider and rebut four other possible ways to draw a

distinction between governments and firms and thereby justify corporate dictatorship. For now, it suffices to say that unless some other major difference can be found, we should default to assuming that political and economic leadership must be chosen in the same way. In the next chapter I will consider possible (morally relevant) differences that can be drawn between political and economic power, and I will find them all wanting.

## Chapter 5: Property and Consent

In this chapter, I will consider four arguments that attempt to justify drawing a distinction between governmental and corporate power: corporate power is justified by private property rights (while governmental power is not); corporate power is justified because employees have the ability to *exit* (while this is much harder for citizens of a government); corporate power is justified because firms have *purposes* (and states do not); and at least the possibility of corporate dictatorship is necessary to give employees the freedom to choose it if they want to (while this freedom does not apply to citizens vis-à-vis governments). I will show that the first two arguments (a) do not suffice to distinguish between firms and governments and (b) fail on their own terms, i.e., they do not justify dictatorship in either sphere. I will demonstrate that the third argument is merely false because states *do* have purposes. Finally, I will once more use coordination games to show that the “freedom” the fourth argument offers to workers is not freedom in any meaningful sense.

### Section 1: Private and Public Property

The argument from private property rights to corporate dictatorship goes something like this. A capitalist owns some capital—a factory, say. Therefore, due to her private property rights, she has the right to use the factory as she sees fit. One possible use is to *allow* other people (workers) to use the factory. However, since she is the owner, the workers can only use the factory on her terms (within the limits of the law, of course). Therefore, she is justified in ordering the workers as she sees fit. This is roughly Robert Nozick’s argument in *Anarchy, State, and Utopia*: if someone legitimately acquires an unowned object, or receives an object through voluntary exchange, they are entitled to it (Nozick 1974, 150-151).

Before I explain the problem with this argument, consider the following thought experiment. Through legal methods, A buys all the land in a medium-sized city, C. Many of the residents of C leave but many stay, either because they want to or because they cannot afford to leave. Since they are making use of A's property by staying in C, though, they can only live on A's terms. Not only must they pay A rent, but they must also follow any other policies A chooses to set up. After all, as the above argument states, A owns the land and so everyone else can only stay there on her terms, and besides, she has to make sure they do not decrease the value of her property. One way A maintains her property's value is by using a portion of the rent she receives to hire a private security firm to punish anyone who does not follow her policies, up to and including confinement inside her buildings. Again, since she owns the city and therefore has the right to decide how people use her private property, this is presumably all totally legitimate.

It is likely clear at this point what I am trying to do. The private property argument relies on the idea that anyone can control how others use their property. But it is possible to define a dictatorship in the following way: the dictator *owns the country* and everyone else is merely a renter. As Karl Wilderquist puts it, "the formal principles of natural property rights allow the government to own property rights in everything, and that under such circumstances it may tax and regulate property without violating anyone's property rights" (Wilderquist 2009, 48). In other words, most or all the powers we traditionally associate with a government would also be possessed by a private individual who *owns all the land* in a given territory (at least, given the modern understanding of property rights). Indeed, historically speaking monarchs have sometimes justified their rule in precisely this way. For now, I will ignore how likely it is that a person can legitimately own or buy a country in this way; at the very least it is *possible*. The

private property argument would then imply that a literal dictatorship is fine, as long as the dictator acquired the land in a proper way. And this situation is not as far-fetched as it might seem; there are many real-life examples of employers seeking to control their employees' lives, paying their employees in corporate scrip, hiring private security to punish those who break company policy, etc. The only way to resist this argument is to draw a distinction between "private property" and "public property," but this distinction must be arbitrary because a dictator is a single person—everything they own is *both* their own private property *and* the public property of the state, since the dictator just is the state. If the government is a democracy we can draw a non-arbitrary distinction, because in a democracy the citizens theoretically *collectively own* public property. This is not good for the private property argument, though, as it would similarly imply that property rights are only fine if the employees collectively own the firm. Regardless, my point stands: if one argues dictatorship is fine in a firm due to property rights, they should also believe it is fine in a government.

Nozick may object that his theory does have a way to draw a coherent distinction between my hypothetical "landlord dictator" and owners of private firms. Specifically, I have assumed that buying all the land in a city is, vis-à-vis private property rights, morally permissible. However, Nozick could argue that if someone actually did this, they would violate his so-called "Lockean Proviso,"<sup>1</sup> which states: "[a] process normally giving rise to a permanent bequeathable property right in a previously unowned thing will not do so if the position of others no longer at liberty to use the thing is thereby worsened" (Nozick 1974, 178). In other words, a person cannot take ownership of a previously unowned object if doing so would make others worse off. Since owning a monopoly on land would significantly worsen the position of

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1. I thank Carol Gould for this idea.

everyone else in the city, Nozick may assert that his theory in fact concludes that the landlord dictator is morally impermissible.

There are three problems with this potential response, though. First, the Lockean Proviso only applies to the *initial* acquisition of previously unowned property, so the landlord dictator could simply *buy* all the land from its previous owners without running afoul of the Proviso. Second, even if we assume that the landlord dictator took the land via initial acquisition, Nozick appears to interpret the Proviso to mean that acts of acquisition are only forbidden when they leave others worse off than they would be if *everything was owned in common* (177). Since he assumes that private ownership with a free market almost always makes everyone better off (*ibid*), it is not clear that the landlord dictator in fact violates the Proviso by his lights. Finally, even if it were true that the landlord dictator violates the Lockean Proviso due to their monopoly on land, that begs the question: Does the fact that, in capitalist societies, a small minority owns most of the capital *also* violate the Proviso?<sup>2</sup> After all, not having access to capital certainly makes one much worse off. It seems that if the landlord dictator violates the Proviso because they own all the land, thus making everyone else worse off, then capitalists *also* violate the Proviso since, by owning (almost) all the capital, they make everyone else worse off.

There is another problem with the private property argument, ironically a problem that Nozick himself anticipated. Along with the principles of acquisition and exchange I summarized above, Nozick thinks there is a third way for property to be legally acquired: as *rectification* for a past injustice.

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2. To be sure, *one* person does not typically own most or all the capital in capitalist societies. But what matters to the Lockean Proviso is whether the positions of *non-owners* are worsened. In other words, the important question is not how many people are in the monopoly, it is how many people are *excluded* from it.

“This principle uses historical information about previous situations and injustices done in them (as defined by the first two principles of justice and rights against interference), and information about the actual course of events that flowed from these injustices, until the present, and it yields a description (or descriptions) of holdings in the society. The principle of rectification presumably will make use of its best estimate of subjunctive information about what would have occurred (or a probability distribution over what might have occurred, using the expected value) if the injustice had not taken place. If the actual description of holdings turns out not to be one of the descriptions yielded by the principle, then one of the descriptions yielded must be realized.” (152-153)

In other words, if an injustice occurred in the past, and if it is true that, had it *not* occurred, the present property distribution would be different, it is *obligatory* to change the distribution until it matches what it would have been like had there been no injustice. In other words, despite the fact that *Anarchy, State, and Utopia* is usually taken as trying to refute redistributionist and other welfare state policies, it actually provides the material to make a strong argument *for* them, namely, that they are necessary to rectify past injustice. Nozick recognizes this potential:

“[A]n important question for each society will be the following: given *its* particular history, what operable rule of thumb best approximates the results of a detailed application in that society of the principle of rectification? These issues are very complex and are best left to a full treatment of the principle of rectification. In the absence of such a treatment applied to a particular society, one *cannot* use the analysis and theory presented here to condemn any particular scheme of transfer payments, unless it is clear that no considerations of rectification of injustice could apply to justify it.” (231)

Nozick goes on to say that establishing “socialism as the punishment for our sins would be to go too far” (*ibid*), but he gives no justification for that statement. In any event, my point is that private property arguments do not apply if that property was itself acquired illegitimately. This poses a huge problem for the objection I am considering in this section, since essentially *all* property has violence somewhere in its history. My own country, the United States, is an obvious example, since the country’s land was acquired through genocide of its native inhabitants and an uncountable amount of its early wealth was generated from chattel slavery. The US is hardly the

only example, though; most of history is filled with bloodshed, and it is extremely naive for *anyone* to think that they would have *just as much* property had that bloodshed not occurred. Furthermore, as Marx and others have noted, much private property was acquired in the first place through force, such as “enclosing” land while forcibly expelling the peasants who used to be on it.<sup>3</sup> If we are to take rectifying past injustice seriously, then, we must conclude that practically no property is “legitimately” owned.

The natural response is to assert that there should be a “statute of limitations” here. While there may be violence in the history of my property, if that violence is far enough in the past then I can still legitimately own it. There are several issues with this response. First, it is not clear that a precise number for this “statute of limitations” can be set in a non-*ad hoc* way, especially considering the magnitude of the crimes we are considering—how many years need to pass before it becomes unnecessary to rectify genocide? Second, if it is morally permissible to own property acquired through previous injustice as long as that injustice is far enough in the past, then governmental dictatorship is also permissible on the same basis. As Wilderquist points out, medieval monarchs “owned” their countries for centuries, so if there is a statute of limitations for e.g. the Native American genocide, there would also be one that legitimates European monarchies (Wilderquist 2009, 55-56). One could attempt to formulate a statute of limitations that legitimates American private property but *not* European monarchies. But as Wilderquist says, it is “contrived to choose the expiration date [of property claims] at the point that maximizes the claims of titleholders relative to both government and native peoples” (Wilderquist 2009, 56). In other words, there seems to be no principled basis for asserting that

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3. See Marx (1978), 431-436 and Wood (2002) Chapter 5, particularly 108-109, and Chapter 7, especially 152-156.

private American property is fine due to a statute of limitations, but European monarchies are not fine even though they existed before the modern American state was created. Therefore, if a long period of ownership entitles one to that property, then a large number of governments (including monarchs or even dictators) would be entitled to much or most of the property they currently own. Third, even if it is coherent to set a statute of limitations that justifies private holders but *not* governments keeping their property, at the very least the fact that the property was acquired by violence at some point in the past surely *limits* the property-holder's claims that they can do whatever they want with their property. It seems *prima facie* absurd to argue that I am allowed to rule over my employees and direct their actions merely because I have the right to utilize however I want the property that I only own due to great historical violence.

Christopher McMahon develops yet another rebuttal to the private property argument. McMahon points out, "Central to ownership is the right to exclude others from contact with an item. Ownership thus gives the owner of an item the right to . . . veto any use of it proposed by someone else. But it does not give him the right to tell anyone to put that property to the use that he wants. It is not a right to command labor" (McMahon 1994, 16). For example, if I own a car, I have the right to tell a person driving the car *not* to do something, but I do not have the right to command them *to* engage in a particular action (*ibid*, 16-17). Therefore, while a property owner does have some control over their property (e.g. they can exclude others from it or destroy it), their ownership does not itself give them a right to control *other people's actions*. Managers' ability to order their workers arises not from their capital ownership *directly*, but (theoretically) because, as Robert Mayer puts it, workers sell the "right" to have a say in one's economic activity in exchange for a job (Mayer 2001, 232).<sup>4</sup> Therefore, because ownership of capital is

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4. In Section 4, I will show that this "right" is, in fact, damaging for workers to have.

theoretically, morally, and practically distinct from capital's control of labor, it is invalid to justify economic authoritarianism on the basis of private property.

I have established, then, that (a) the property argument does not succeed in drawing a principled distinction between corporate and governmental power and (b) it does not work on its own terms, both because it ignores the historical violence that lies behind almost all currently-owned property and because owning property is distinct from control of others' actions. If so, should we conclude that there are no private property rights whatsoever? This is certainly the most straightforward alternative, particularly considering the concerns about historical violence, but it is not the *only* alternative. We can instead follow McMahon and Mayer and distinguish ownership from control. Just like the shareholders own a public corporation but do not control it, we can claim that even if a capitalist legitimately owns a factory (or any other means of production), she does not get to *control* everything about it, particularly how the workers use it.<sup>5</sup> After all, nobody believes that one should be able to use their property *however* they want, i.e., I can own a sword but I do not get to stab people with it at will. Our free usage of our property is limited by the rights *other* people have—in the sword case, their right to not be unjustly injured or killed. All we need do, then, is state that a fundamental right is the right to representative

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5. It should be emphasized that, in contemporary capitalist societies, ownership and control do often go together. As Gould puts it, “In capitalism, domination takes the form of control by the capitalist class over the activity of the working class by means of their control over the objective conditions of laboring activity,” this control resulting from their *ownership* of the means of production (Gould 1978, 157). The reason ownership often leads to control is because, as I stated previously, workers can give up their right to control their own actions in exchange for access to the means of production, i.e. a job. My proposal would effectively forbid them from doing this because, as David Ellerman puts it, it would treat workers' democratic rights as inalienable (Ellerman 1992, 137-139). Therefore, while my proposal here would not (I argue) significantly impact property rights *themselves*, it would involve a substantial change in how the wider society treats *other*, related rights. Specifically, my proposal would regard the right to govern one's economic actions as not a “possession” that can be traded, but a fundamental and inalienable human right. (I thank Carol Gould for bringing this point to my attention.)

democracy, which means being able to decide *who controls us* (which, as I argued in the previous chapter, means deciding who serves as our focal point). If we were to implement this principle, then a capital owner would not be allowed to use her property to unilaterally control the actions of her employees, because doing so would violate their democratic rights.

## Section 2: Exit and Consent

The second objection I will consider can be called the “exit” argument. Recall that in the previous chapter, I argued that since corporate authority is not based on consent but on focal points, one cannot claim it is morally distinct from governmental authority. The exit argument asserts that, while it may be true that corporate power is not derived from consent, it is still legitimate because if a worker disapproves of their bosses and/or the bosses’ policies, they can always quit their job and get another. So while the managers’ power is not *based on* consent directly, workers still *consent to* it because they choose not to leave. As Robert Phillips and Joshua Margolis argue, “the possibility of exit is constitutive of organizational [corporate] membership, just as its impossibility is constitutive of societal [governmental] membership. . . . Exit from organizations is not methodologically ruled out as it is for (Rawlsian) political theory” (Phillips and Margolis 1999, 623). Therefore, corporate dictatorship is not a violation of liberty.

Again, I will begin my rebuttal with a thought experiment. Imagine a world where every country is a dictatorship. However, the dictators have all agreed to let anyone emigrate *from* a country if they want to, though they cannot necessarily immigrate *to* any particular country—each dictator has the right to refuse entry to anyone. Furthermore, a common “global fund” exists that will pay all the expenses of anyone who moves from one country to another, to make sure no one is forced to stay in a country because they cannot afford to move. (This is an extremely

unrealistic assumption, of course, but this thought experiment does not have to be plausible to prove its point.) Is dictatorship morally legitimate in this world? If the exit argument is accurate, the answer must surely be “yes.” After all, it would appear that everyone in this world *consents* to be ruled by whichever dictator they happen to be ruled by, since they could always move and be ruled by a different dictator if they wanted to and the other dictator accepted them.

It is important to note that in this thought experiment, moving from one country to another is *easier* for many or most people than changing jobs is in our world. Most people cannot afford to be unemployed for a significant length of time, so they cannot just quit their job whenever they want. Even if they *could* survive a few months’ unemployment, there might not be any other jobs available to them in their area, especially if they are unskilled or have difficulties in getting employed (due to e.g. the lack of a high school diploma, illiteracy, or a criminal record). There are non-economic reasons why emigrating to a different country is often difficult, such as tight community bonds in one’s present country and the lack of such in the destination, but the same is often true for workplaces. And even if emigrating would be highly emotionally difficult, as long as it is *feasible* (and it is feasible in my thought experiment, due to the global fund), it is still a realistic option. So if we think dictatorship would be bad in my thought-experiment world, then corporate dictatorship must be bad in our world.

One could reply: but is it really obvious that dictatorship *would* be wrong in the thought-experiment world? While almost all Western philosophers agree dictatorship is bad, that may be because it is unreasonable to expect that dictators would be willing to allow unlimited emigration, much less create a fund for people to move from one country to another. However, as an empirical matter, this does not appear accurate. Practically no theorist in the Western tradition

has argued or implied that democracy is only necessary because people cannot freely move from one state to another. While I do not have the space here to discuss every argument for democracy ever made, most of them rest on the idea that legitimate authority requires the consent of the governed, and the only way to obtain this consent is for the governed to choose who governs them. Neither Locke nor Rousseau nor any other major democratic theorist even considers the idea that the possibility of *exit* could count as consent. None of the liberal bourgeois democratic revolutions throughout the 18<sup>th</sup> and 19<sup>th</sup> centuries advocated that their respective monarchs establish *open borders*; their demands ranged from constitutions limiting the monarchy to full-on representative democracy. The idea that “choose your own dictator” can be a type of consent is very much a minority view in the Western tradition, if it can even be found at all. Therefore, it is highly implausible to suggest that Western philosophers only defend(ed) democracy because people cannot freely exit states.

The exit argument partisan may alternately argue that governments are different from firms because there are far *fewer* governments than firms. If there were millions of countries instead of hundreds, perhaps liberals like Locke or Jefferson would not mind monarchies as long as people got to choose which monarch to live under. However, this argument too is unconvincing, because none of the actual *theories* provided by historical liberals to justify democracy even mention the number of countries as a consideration. It would not have been unreasonable for them to mention it, either. If the exit argument partisan is correct here, a major alternative to democracy would be *decentralization*, i.e., eliminating the modern nation-state and making every city and town on the planet an independent monarchy/dictatorship. Doing this would create millions of countries, thus (if the argument currently under consideration is correct)

making dictatorship morally acceptable. To my knowledge, though, almost no one has advocated this—proponents of decentralization tend not to pair it with feudalism. The fact is that the exit argument’s conception of “consent” has only been paired historically with discussions of the *economy*; almost nobody has used it in reference to political entities. Once we apply this conception of consent to states, it becomes much less convincing.

Admittedly, though, that does not necessarily make it false. But there are several other problems with the exit argument. These include: (a) As Mayer points out, it is relatively easy for many/most people to move to a different *city* or municipality, but we do not then conclude that it would be legitimate for cities to be run autocratically; “[per the exit argument] the fact that it would be easy for me to move from Chicago to the neighboring community of Evanston with only a day’s notice weakens my claim to a democratic say in Chicago, but this conclusion strikes me as intuitively false” (Mayer 2000, 309). (b) Most companies are not willing to hire anyone who wants to work for them, so we can assume that most dictators in my example world would not be willing to allow just anyone to immigrate there. Even if I have the freedom to leave my firm, this does not mean much unless I have a wide variety of *other* options to choose from, which is not guaranteed in a capitalist economy or in my thought experiment. (c) The exit argument puts all the burden of deciding which dictatorship to live under, moving there, etc., on the citizens/employees. But the exit argument is supposed to be justifying the violation of *their* rights to self-governance. Since they are the ones losing out, they should not have to bear this additional burden. (d) Even if I have the choice of *which* monarchy to live under, I lack the choice to live under *no monarchy at all*. This is likely the most fundamental problem with the exit argument. As Gould puts it, “although workers can indeed leave any particular firm (if they

can find another job!), they cannot leave all of them” (Gould 2014, 248). The exit argument claims to give people the ability to choose what kind of governance they live under, but in reality it renders them unable to choose something of crucial importance, namely, the ability to take part in that governance.<sup>6</sup>

### Section 3: The Purpose of a State

Third is what I will call the “purpose” argument. The purpose argument states that firms and states are different because firms have particular, concrete *purposes*, goals, or aims, while governments do not—or at least, *should* not. For example, Phillips and Margolis argue, “People join and remain with associations, just as they are recruited and evaluated, on the basis of the associations’ objectives. In contrast, the state should be neutral in its preference for any particular set of values, other than those that permit individual liberty in choosing a conception of the good and living by it” (Phillips and Margolis 1999, 623). Therefore, so the argument goes, it is legitimate for private associations such as firms to implement *meritocracy*, valuing people differently depending on how much they contribute to the association’s objective, while it is illegitimate for governments to do so: “organizations (unlike states) may justifiably distribute benefits (jobs, compensation, incentives) in a way that takes account of a person’s contributions” (624). Since firms have concrete aims or purposes, they must be able to reward those who do the most to further that purpose (625); on the other hand, states should not impose any one particular moral viewpoint on the populace, and so must not discriminate between citizens in this way.

While Phillips and Margolis are interested merely in carving out a unique space for business

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6. One could argue that, while it is important that people be able to choose what kind of corporate governance to work under, this implies that they should have the right to decide whether to work in a democratic firm *or* a hierarchical one. I will address this argument in Section 4.

ethics, this argument could easily be used to support corporate autocracy: because firms have purposes and governments do not (or should not), it is invalid to equate them normatively, and in particular, those who contribute most to accomplishing the firm's purpose can be legitimately compensated by receiving power *within* the firm.

Phillips and Margolis's argument is indebted to John Rawls, who provides much of the broader philosophical backing to their claims. In *Political Liberalism*, Rawls argues that there are two differences between states and private associations. First, Rawls assumes that states (or "well-ordered democratic societies") are closed systems where people only enter via birth and exit via death, and therefore humans have no prior identity before joining society (Rawls 2005, 40-41). I am not going to discuss this argument in detail here, though. While it is true that some citizens "enter" society via birth, this does not seem to have a major impact on my argument, as they only gain voting rights upon reaching the age of majority anyway. And I addressed the argument that corporate autocracy is justified because workers are able to exit in the previous section. So I will focus on Rawls's second difference:

"A second basic difference between a well-ordered democratic society and an association is that such a society has no final ends and aims in the way that persons or associations do. Here by ends and aims I mean those that have a special place in comprehensive doctrines. By contrast, the constitutionally specified ends of society, such as those given in the preamble to a constitution—a more perfect justice, the blessings of liberty, the common defense—must fall under a political conception of justice and its public reason. This means that citizens do not think there are antecedent social ends that justify them in viewing some people as having more or less worth to society than others and assigning them different basic rights and privileges accordingly. . . .

[A democratic association] is not entitled, as associations within society generally are, to offer different terms to its members (in this case those born into it) depending on the worth of their potential contribution to society as a whole, or to the ends of those already members of it. When doing this is permissible in the case of associations, it is because in their case the prospective or continuing members are already guaranteed the status of free

and equal citizens, and the institutions of background justice in society assure that other alternatives are open to them.” (41-42)

Rawls’s last sentence is a variant on either the exit argument or the freedom argument, which I address in the previous and following sections respectively. To understand the rest of the passage quoted, I must discuss what he means by “comprehensive doctrines” and “a political conception of justice and its public reason.” I will start with the first one. Rawls defines “comprehensive doctrines” as *general* and *comprehensive* moral theories, such as utilitarianism. They are general inasmuch as they judge actions in a wide variety of contexts, from the interpersonal to the societal and international, and are comprehensive inasmuch as they encompass every moral value recognized as valid by the theory (13). By contrast, while a “political conception of justice” is also moral, it limits itself strictly to the “basic structure” of society, i.e., its “main political, social, and economic institutions, and how they fit together into one unified system of social cooperation from one generation to the next” (12). Because its scope is so much more limited, it can be explained and defended without reference to any one particular comprehensive doctrine, although some comprehensive doctrines may themselves support the political conception for their own reasons (*ibid*).

This difference between the political conception of justice and comprehensive doctrines also plays a key role in Rawls’s concept of “public reason.” According to Rawls,

“[P]olitical liberalism looks for a political conception of justice that we hope can gain the support of an overlapping consensus of reasonable religious, philosophical, and moral doctrines in a society regulated by it. Gaining this support of reasonable doctrines lays the basis for answering our second fundamental question as to how citizens, who remain deeply divided on religious, philosophical, and moral doctrines, can still maintain a just and stable democratic society. To this end, it is normally desirable that the comprehensive philosophical and moral views we are wont to use in debating fundamental political issues should give way in public life. Public reason—citizens’ reasoning in the public

forum about constitutional essentials and basic questions of justice—is now best guided by a political conception the principles and values of which all citizens can endorse.” (10)

I will soon discuss in more detail Rawls’s notion of a reasonable overlapping consensus; for now it suffices to state that in Rawls’s view, the citizenry as a whole, despite being deeply divided on fundamental moral questions, should be able to agree on certain political principles, and public reason is the idea that *only those agreed-upon principles* should guide citizens when they engage in discussion about basic political questions. Later, Rawls clarifies that the basic political questions include the structure of government and the basic rights and liberties that majorities are obligated to respect (227). The political conception of justice itself Rawls assumes to be liberal, inasmuch as it assigns priority to individual rights and liberties *as well as* the necessity that all citizens have the means to effectively make use of these rights (223); however, different people may have different ways of interpreting these principles, which is fine, as long as the values that underlie these interpretations can reasonably be accepted by the other citizens (226). This is all important because Rawls thinks that the exercise of coercive political power is only legitimate when it is done in accord with a constitution that everyone may reasonably accept (217).

To summarize, then: Rawls distinguishes between political society and particular associations (such as firms) on the basis that the “ends” or “goals” of the former must lie *entirely within* a political conception of justice, which everyone in the society can reasonably accept as being in line with their individual comprehensive doctrines. By contrast, a private association may legitimately be based on a particular comprehensive doctrine that some or all citizens do not accept, as long as the background society properly establishes rights and liberties for all citizens.

For this reason, a Rawlsian (though perhaps not Rawls himself)<sup>7</sup> might argue, it is legitimate for

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7. Rawls says that both (suitably regulated) capitalism and market socialism could satisfy his principles of justice (Rawls 1971, 228), so I do not claim that Rawls himself would endorse the

employers to rule over their employees, while it is illegitimate for a government to do the same to its citizens.

However, this strong distinction between a political conception of justice and comprehensive moral doctrines is not tenable.<sup>8</sup> To see why, I will first detail Rawls's idea of a reasonable overlapping consensus. Rawls says that "there are many conflicting reasonable comprehensive doctrines with their conceptions of the good, each compatible with the full rationality of human persons," which is why no one comprehensive doctrine should serve as the basis for a society's constitution (135). The only legitimate way to implement coercive state power is to use it "in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse" (137). This is Rawls's notion of an overlapping consensus: everyone in the society agrees (more or less) that the basic political conception of justice underlying the state's constitution is correct (the consensus part), but each person believes in it for their own reasons, based on their own individual comprehensive doctrines (the overlapping part).

An obvious objection here is that there are many comprehensive doctrines that will not agree with any liberal political conception of justice, and hence will not belong to Rawls's overlapping consensus. This is why his *reasonable* qualifier is necessary. What Rawls values is not a plurality of *all* comprehensive doctrines, but a plurality of *reasonable* ones. There are two key aspects to Rawls's definition of 'reasonable.' First, someone is reasonable if "they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly,

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Rawlsian argument I am considering.

8. I am hardly the first to make this point. Many theorists have argued this or a similar point, including Baehr (1996), Baier (1989), Friedman (1999), Huemer (1996), Mouffe (2009), Neal (1990), Nickel (1990), Steinberger (2000), and Wenar (1995). That said, I believe the particular argument I give here is original, and I have also tailored it to be directly relevant to my purposes.

given the assurance that others will likewise do so” (49), i.e., they are willing to abide by a norm of *reciprocity* rather than asserting that standards can apply to some people but not others. Second, someone is reasonable if they are willing to “recognize the burdens of judgments and to accept their consequences for the use of public reason in directing the legitimate exercise of political power” (54). The burdens of judgment are essentially Rawls’s explanation for why reasonable people do not always agree (55-57). Due to the burdens of judgment, there are a large number of reasonable comprehensive doctrines that it is reasonable to believe—a reasonable comprehensive doctrine, presumably, being an ideology that obeys Rawls’s two rules detailed previously in this paragraph. Therefore, reasonable persons must recognize that they cannot use political power to suppress someone else’s reasonable comprehensive doctrine, as they cannot reasonably justify such suppression to the other person (60-61). This plurality of views is not destructive to the stability of society because, again, these views all agree on (more or less) the same political conception of justice; if Rawls’s own case for this conception, justice as fairness, cannot gain the consent of all reasonable comprehensive doctrines, then it has failed and must be changed until it does attain such a consensus (65-66).

This raises the question: *would* justice as fairness gain the consent of all reasonable doctrines? Rawls argues: “we must find some point of view, removed from and not distorted by the particular features and circumstances of the all-encompassing background framework, from which a fair agreement between persons regarded as free and equal can be reached” (23). This point of view, Rawls says, is the original position, where we abstract away from any individual facts of a person’s life, such as their social position or comprehensive doctrine (23-24). On this basis, it would appear that all reasonable people should indeed agree with Rawls, since part of

being reasonable is the willingness to abide by *fair* terms of cooperation. But this argument only goes through if we assume that everyone agrees with Rawls about what ‘fairness’ is, and that assumption seems highly dubious.

To clarify, it will be useful to introduce a term in order to more easily differentiate the concepts at play here. I will use ‘fairness’ to refer to the (surely highly vague/ambiguous) ordinary English usage of the word, while ‘fairness\_R’ will refer to Rawls’s particular conception. Now, when Rawls says that part of being reasonable is abiding by fair terms of cooperation, what does this mean? Let us first assume it means ‘fair’ in the first sense (and not ‘fair\_R’). The problem facing Rawls is that there are many possible comprehensive doctrines that claim a willingness to abide by “fair” terms of cooperation, but that disagree that fairness requires making judgments inside Rawls’s original position. Therefore, not all reasonable comprehensive doctrines will agree with Rawls’s political conception, and indeed, there will not be consensus around *any* political conception, since doctrines often disagree about what “fairness” requires.

So instead, let us say that ‘fair’ is being used in the ‘fairness\_R’ sense. Then Rawls is arguing: reasonable comprehensive doctrines are those that are willing to abide by fair\_R terms of cooperation, and since by definition that means Rawls’s justice as fairness, they will all necessarily agree with justice as fairness. The argument is now valid, but at great cost. Recall that one of Rawls’s main concerns is that people not impose their own comprehensive doctrine on those who disagree; indeed, the refusal to do this is one of his requirements for being reasonable. But if we say that the only way to be reasonable is to follow fair\_R terms of cooperation, that effectively means that the only way to be reasonable is *to agree with Rawls’s*

*political theory*. Under the ‘fairness\_R’ interpretation, then, Marilyn Friedman is correct when she says that reasonableness “is defined in terms of the very values and assumptions from which Rawls derives his political liberalism” (Friedman 1999, 22; see also Neal 1990, 43-44 and Mouffe 2009, 4).

To see why this would be devastating to Rawls’s overall project, consider how he responds to an objection by Jurgen Habermas. Habermas asks if declaring a moral judgment “reasonable” is claiming it to be true. Rawls responds: “Political liberalism does not use the concept of moral truth applied to its own political (always moral) judgments. Here it says that political judgments are reasonable or unreasonable; and it lays out political ideals, principles, and standards as criteria of the reasonable” (Rawls 2005, 394). It is important for Rawls to strictly separate ‘true’ from ‘reasonable’ since he needs it to be possible that a number of different comprehensive doctrines, which all disagree with each other as to what is true, can still accept the same political doctrine. But as we just saw, for Rawls’s overall argument to go through, ‘reasonable’ has to effectively be coextensive with “agrees with Rawls’s political theory.” In other words, Rawls’s definition of reasonable needs to assume *the truth* of his political theory in order for it to play the unifying role it needs to. So like Habermas suggests, ‘truth’ is indeed part of Rawls’s concept of the ‘reasonable’ (see also Steinberger 2000, 163-164). This is highly damaging to Rawls’s theory because, as Friedman says, a liberal government is supposed to obtain the *consent* of those it governs (Friedman 1999, 19). As we have seen, though, Rawls ends up justifying “the use of coercive (liberal) power over some of the individuals who reject its tenets. From their points of view, it is *Rawls* who appears, by analogy with his own characterization of it, to be unreasonable” (Rawls 2005, 30; see also Huemer 1996, 385-386).

When ‘fairness’ is ‘fairness\_R,’ Rawls’s political conception of justice assumes the truth of his own comprehensive doctrine, so to obtain his overlapping consensus, he must marginalize the doctrines he fundamentally disagrees with.

Now I can return to the original point of this discussion: that Rawls cannot draw a sharp distinction between a political conception and a comprehensive doctrine. A political conception needs a certain amount of precision to lead to concrete conclusions (such as Rawls’s difference principle<sup>9</sup>), and that precision necessitates certain deeper moral convictions. To be sure, it does not necessitate committing oneself to a position on most metaphysical and/or scientific questions, e.g. the existence of God. But, similar to a point James W. Nickel makes (Nickel 1990, 213), a political conception of justice *does* require one to take a stance on a number of highly controversial moral questions, such as what it means to be fair, what rights society owes individuals, what duties individuals have toward society, and more. A Rawlsian constitutional system needs to take a stand on all these issues and will thereby impose itself on those who hold different moral theories. In other words, a liberal society is very much *not* neutral on questions related to morality; e.g., its commitment to private property rights will horrify socialists and its valuing of individual rights over community duties will horrify communitarians. Calling these views “unreasonable” and thus legitimately suppressible does not change the fact that the government is imposing its own moral viewpoints on those who disagree.

But perhaps all this is just a problem with Rawls’s theory, and a different liberal theory could overcome my objections? That would be highly unlikely. To return to Phillips and Margolis, in my quotation of their article above, they admit that the state must indeed promote

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9. The difference principle is the idea that any inequality must redound to the benefit of those at the *bottom* of the societal hierarchy (Rawls 2005, 282). Its details do not concern me here.

*some* values, namely those that enable individuals to choose their own values; needless to say, there are many who believe that individuals should *not* be able to choose their own values, and the liberal state is hardly “neutral” toward them. The same is true even for a non-liberal theorist like Michael Oakeshott. Oakeshott attempts to draw a sharp distinction between “enterprise association,” which is an association devoted to a certain common purpose or interest (Oakeshott 1975, 114), and “civic association,” which is an association devoted to certain *practices*, which are essentially abstract rules or customs that “qualify but do not determine” behavior (120-121). Richard Flathman, however, accurately points out that certain substantive values and beliefs are necessary even to civic association, such as accepting the possibility of binding, authoritative rules, so Oakeshott’s distinction is untenable (Flathman 1980, 83). More broadly, any constitutional order *by necessity* promotes certain values and suppresses others, because if you give the government a certain structural feature, you are saying that it is *morally correct* for the government to have that feature—a position others can (and likely will) disagree with. Furthermore, political conflict is, in a real sense, about what the purpose of the state should be: should the state promote the material well-being of its citizens (as welfare-state liberals believe), or should it merely facilitate their private transactions (as libertarians believe)? Because the strength of political coalitions waxes and wanes, the purpose of a state will change over time, but it will always have one (or more than one, usually). Therefore, the argument that states and firms are different because the former lacks a purpose fails.

To be clear, none of this is to deny that there *are* differences between the purposes of states and the purposes of firms. Firms tend to be devoted to the production of a certain commodity, which is not true for states. But this difference is not enough to ground the claim that

a hierarchical meritocracy is legitimate for firms, but not for states. As I asserted in the previous paragraph, the purpose of a state changes over time as legislatures pass different laws. In this way, democracy can be interpreted as the following idea: the purpose of a state should be determined by *all the citizens* who live in that state. Similarly, what I am arguing in this essay is that the purpose of a firm should be determined by *all the workers* who are members of that firm. In other words, what matters is not what the purpose of a state or firm *is*, but what the process for *deciding on* that purpose should be. In this regard, there are no relevant differences between firms and states.

#### **Section 4: The Contradictions of Freedom**

The final objection I will consider, which I will call the “freedom” argument, goes as follows. People should have the freedom to decide what kind of job to have. Different jobs have different benefits and drawbacks: higher or lower wages, better or worse working conditions, location, etc. One worker may be willing to accept bad working conditions for a higher pay, while another may be most concerned with working close to home. It is wrong for us to decide *for* workers which of these is most and least important. Rather, we should allow people to choose for themselves what trade-offs they are willing to make. One such trade-off is whether or not to have the ability to elect one’s management. We can imagine that some people will care deeply about this and be willing to accept lower pay and other sacrifices to have it, while others will care very little or not at all. It is wrong for us to impose our own moral standards on this latter group. Therefore, we should allow both democratic and autocratic firms to exist, so that each type of worker will be able to have whichever “governance structure” they most prefer. This is similar to Thomas Christiano’s “trade-off” argument, though his argument was made in the

context of a debate about what is required for self-development: “If some pursue self-development in a way that requires little or no political participation, they would not need opportunities to participate in collective decision making . . . . [I]t may be argued that a greater liberty is afforded citizens if they have the freedom to make exchanges” (Christiano 1990, 157). Nozick even seems to suggest that the relative lack of cooperative enterprises, even though many unions possess treasuries with sufficient wealth to start a business, is a sign that most workers do not much mind being ordered around by an unelected management (Nozick 1974, 253). If there was a deep desire for democracy in the working class, he implies, there would be nothing stopping them from setting up collective enterprises themselves in a capitalist economy.

The first question to raise is: can this argument be made to apply *only* to firms and not to governments? After all, there are certainly some people who would prefer to live in a monarchy rather than a democracy; this argument would seem to imply, then, that we should keep some monarchies and dictatorships around so that people who like that style of government can move there. But unlike the previous arguments I have considered in this chapter, I do think it is somewhat plausible to assert that there is a normative difference between governments and firms in this area. First, there are far fewer countries than there are firms, so the options are fewer in the political case, even if we were to decentralize political power extensively. Second, citizens in an autocratic government are likely to be propagandized to believe in that government’s legitimacy in a way employees typically are not. Third, even if people should be allowed to live in a dictatorship *right now*, it is much less clear that they should be able to make this choice for their children as well—which is one major issue with letting people vote to make their country a monarchy—but this problem usually does not exist for firms, as it is much less likely for children

to work in the same firm as their parent(s). Luckily for my thesis, though, this objection fails miserably on its own terms because it has a fundamentally wrong understanding of the way bargaining works. To explain why, I will return to Schelling.

Before Schelling introduces the concepts of coordination and focal points, he talks about bargaining; specifically, a zero-sum bargain where more profit for one side means less for the other. An employment contract is certainly of this form: the more wages the employee gets, the less money the employer will end up with.<sup>10</sup> Schelling says:

“A bargain is struck when someone makes a final, sufficient concession. Why does he concede? Because he thinks the other will not. . . . There is some range of alternative outcomes in which any point is better for both sides than no agreement at all. To insist on any such point is pure bargaining, since one always *would* take less rather than reach no agreement at all, and since one always *can* recede if retreat proves necessary to agreement. Yet if both parties are aware of the limits to this range, *any* outcome is a point from which at least one party would have been willing to retreat and the other knows it! There is no resting place.” (Schelling 1980, 21-22)

This clearly anticipates Schelling’s later coordination game and focal point theory. In coordination game terms, a bargain is a Hawk/Dove game (**HD**): each bargainer would prefer to insist on the deal most beneficial to themselves (Hawk), but if both do this the bargain breaks down, which is disadvantageous to both. The way to resolve this is, as always, a focal point. But Schelling’s interest in this early chapter is in the possibility of one bargainer *creating their own* focal point in a counter-intuitive way:

“The essence of these tactics is some voluntary but irreversible sacrifice of freedom of choice. They rest on the paradox that the power to constrain an adversary may depend on the power to bind oneself; that, in bargaining, weakness is often strength, freedom may be freedom to capitulate, and to burn bridges behind one may suffice to undo an opponent.” (22)

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10. There is a possibility that giving a worker a higher wage would increase their motivation, encouraging them to be more productive and thus earning more profit for the firm in the long run, but this possibility does not significantly affect my arguments in this section.

In other words, by eliminating *one's own* freedom, one is able to gain an advantage in a bargain. How does this work? Imagine A wants to buy a house they would be willing to pay \$20,000 for, but would prefer to only pay \$16,000 (which we assume to be the seller's minimum price).<sup>11</sup> The way to pay the lower amount is to convince the seller that A would *not* be willing to pay more than \$16,000 for the house. He can do this by bluffing, but it would be far more convincing to *make it true*: "suppose the buyer could make an irrevocable and enforceable bet with some third party, duly recorded and certified, according to which he would pay for the house no more than \$16,000, or forfeit \$5,000" (24). By doing this, A no longer has to bluff that he would not be willing to go a cent above \$16,000; his action has made that "bluff" into the *truth*. As Schelling says, this shows "that if the buyer can accept an irrevocable *commitment*, in a way that is unambiguously visible to the seller, he can squeeze the range of indeterminacy down to the point most favorable for him" (*ibid*). A limits his own range of action, but by doing so ends up 'winning' the bargain. Schelling proceeds to outline a number of possible methods one can use to make such a commitment, the details of which do not concern me here. What is important is the general theme: by somehow committing oneself to a certain course of action and thereby limiting one's own freedom, one is actually able to benefit in the long run.

Let us examine this situation in light of coordination games and focal points. I will again use the example of A and the house. Assume that the best possible outcome for A is to pay only \$16,000 for the house, while the best possible outcome for the seller B is to get \$20,000 for the house. The "Hawk" move, then, is to refuse to make a deal unless it results in one's best possible outcome. The "Dove" move is to agree to the *other's* best outcome. If both play Dove, the house

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11. The low numbers here indicate the year Schelling wrote this chapter.

sells for \$18,000, and if both play Hawk the bargain breaks down. I will assume that the house is worth \$20,000 to the buyer and \$16,000 to the seller. We then get the following payoff matrix:

<b>House Bargain (HB)</b>	Seller B plays Dove	Seller B plays Hawk
Buyer A plays Dove	\$2000; \$2000	\$0; \$4000
Buyer A plays Hawk	\$4000; \$0	$-\infty$ ; $-\infty$

As usual, the first number represents what A gets and the second number represents what B gets in each option. The  $-\infty$ ;  $-\infty$  in the Hawk/Hawk result represents that the worst option for both sides is the breakdown of the negotiation. The issue here, then, is that both A and B *want* to play Hawk, but they also know that the other side wants to as well, and neither wants a Hawk/Hawk outcome. However, because of this, they both expect the other side to play Dove—which, if true, means that it is now safe to play Hawk! How can this impasse be resolved? If one of them thinks *the other* will almost certainly play Hawk, they will play Dove, which (if they expect this) will lead the other to play Hawk, and one of the Hawk/Dove outcomes will result. This is why making a binding commitment on oneself is, ironically, to one's advantage: what matters is *convincing* the other person that one has no choice but to play Hawk. If one *does* have a choice, then the other party will not be incentivized (as much) to play Dove. To summarize, then, in a negotiation, it is often the party with the *least* freedom of choice that benefits the most.

How does this apply to employment contracts? Consider the case of wages first. Many on the right disagree with minimum wage laws. One argument against them is that they increase unemployment, but more relevant to my purposes is the argument that they abridge the freedom of workers.<sup>12</sup> Similar to the objection to my thesis that I am presently considering, this argument

12. For the record, I do not think the empirical evidence demonstrates that minimum wage laws raise unemployment, and even if they do, the solution is not to eliminate minimum wage laws but to have the government hire the unemployed—something that should be happening anyway.

asserts that workers should be free to accept a lower wage in exchange for other benefits, such as a better working environment. But as we have just seen, having more *freedom* in a negotiation often results in someone getting a *worse deal* overall. Effectively, minimum wage laws serve the same purpose as the hypothetical “bet” Schelling discusses in the house example. If the minimum wage is \$10, the employer knows that the worker will not accept a lower wage, *even though* a lower wage would be better for the worker than unemployment. In other words, minimum wage laws effectively force the worker to play “Hawk,” thereby convincing the employer to play “Dove,” resulting in an outcome more favorable to the worker than if minimum wage laws did not exist.

The freedom argument against my thesis fails for the same reason. It may seem *prima facie* to the benefit of workers to give them more options, to let them choose to work in a democratic or autocratic firm. But in point of fact, it actually *weakens* their bargaining position. If workplace democracy is the “Hawk” option, since it is most favorable to the worker, then to “win” the Hawk/Dove game a worker would have to convince potential employers that they would only be willing to work at democratic companies. However, it is very unlikely that employers would take such a threat seriously. This is because playing hardball would be incredibly risky for the worker, since by *insisting* on the right to elect their managers, they would be risking not having a job at all. To repeat, even working at an autocratic firm is (almost always) better than unemployment, and employers know this. Therefore, it is extremely difficult for the worker to make a credible threat that they will play “Hawk” (insist on a democratic firm) no matter what. Hence, even if the worker would *personally* prefer to be in a democratic firm, the

“freedom” to choose to work in an autocratic firm ends up worsening their bargaining position, making it likely that they will end up under the thumb of their employers.

This would be bad enough, but the situation gets even worse for the worker. It is not just that they cannot make a credible commitment to only work in a democratic firm (their “Hawk” move); the employers *can* make a credible commitment to only hire workers who are willing to work for an autocratic firm (their “Hawk” move). The reason is that, as I argued in the previous chapter, an autocratic firm *is the focal point* in contemporary Western societies. It is the natural, “obvious” solution to the question of how economic firms are to be organized. Workers expect their employers to govern them, and they also expect other workers to be *willing* to be governed by employers. Similarly, employers do *not* expect any worker to hold out for a democratic firm, and they also expect *most other employers* to run autocratic firms. It may not be a legal obligation, but informal focal points are often just as strong as, or even stronger than, explicit laws. As such, this focal point effectively acts as a restraint *for the employers*: the employer will “obviously” play Hawk, since that is the focal point, and as such workers effectively have no choice but to play Dove. Whatever this situation is, it is certainly not freedom for the workers.

If not freedom, then what is it? Marxists and other leftists may call it “exploitation” or “coercion,” but while something coercive is indeed going on here, the question is just *who* (or what) is coercing the workers. To begin, I will briefly discuss coercion in general. The classic example of coercion is a mugging: a robber holds a gun to my head and says, “Your money or your life.” I may theoretically have the option of choosing to die, but realistically I “have no choice but” to give the robber my money. There are many controversies surrounding even person-to-person coercion of this kind, but overall the moral intuition appears clear enough, even

if it gets tricky with corner cases. Now, workers in a free market are not coerced in *this* way. No individual capitalist is holding a gun to their head demanding, “Your labor or your life”; they have the option of turning down any *individual* employment contract and looking elsewhere. One typical socialist response is to argue that workers may not be coerced by individual capitalists, but they are coerced by the *capitalist class* as a whole. For instance, Nancy Holmstrom argues the following, in the context of offering an explication of Marx.<sup>13</sup>

“In fact, Marx believes, the exchange [i.e. employment contract] is an unfree one, because it is based on force. Although they are not tied to any particular capitalist workers under capitalism are tied to the class of capitalists. The laborer under capitalism who is free of feudal bonds is also ‘free’ from ownership of the means of production. Persons who have no access to the means of production other than their own capacity to labor do not need to be forced to work by chains or by laws. The ‘freedom’ they have compels them to sell their labor power to those who own the means of production and to put themselves under their dominion.” (Holmstrom 1977, 357)

Holmstrom’s argument is effectively the following:

1. In a capitalist society, some people own the means of production (capitalists) and some do not (workers).
2. Workers must gain access to the means of production in order to produce commodities, and thereby survive.
3. The only way for a worker to access the means of production is to work for *some* capitalist.
4. Therefore, workers are *forced* to be under the dominion of the capitalist *class*.

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13. I do not claim that Holmstrom is giving an *accurate* summary of Marx. Indeed, my own interpretation of Marx, at least in *Capital*, is that his condemnation of exploitation resides in the process *itself*, in the fact that the worker is under the capitalist’s control and the product of their labor belongs to their employer (Marx 1978, 350). In other words, I think that for Marx, the worker’s need to sell their labor power to survive explains *why* they work for the capitalist, but does not itself furnish the main moral condemnation of the system. But my concern is not with the correct explication of Marx, but in whether or not Holmstrom’s argument is substantively accurate, so I will say no more on this topic here.

However, Holmstrom blames the wrong culprit. While I agree workers are being coerced, the coercive agent is neither an individual capitalist *nor* the capitalist class as a whole. The main problem with her argument is the jump from 3 to 4. Holmstrom, and those with similar viewpoints, assert that, similar to how the robber coerces me to give them money because I will die otherwise, the capitalist class *as a whole* coerces workers to work for them because they will die (starve) otherwise. But while our moral intuitions are relatively clear in the individual case, they are much less clear when we move the discussion to groups and classes. Individual workers, after all, never directly interact with the capitalist *class*; they only interact with individual capitalists. The problem with the argument, then, is that it simply *assumes* that this sort of “group coercion” is so unethical that it ought to be morally impermissible. Unlike the robber case, though, it is not clear that most people possess a strong intuition that having to work for *some capitalist or other* constitutes immoral coercion or a relationship based on force. As such, it is not obvious that this “group coercion” is inherently immoral.

There is another problem with using Holmstrom’s exploitation argument to justify a right to economic democracy specifically. Her exploitation argument relies on the assumption in 2 that the only way for a worker to survive (or attain a decent standard of living, at least) is to access the means of production. Therefore, as Robert Mayer says:

“If consent to subjection has been rendered hollow through the reduction of effective options, the proper remedy for this loss is to make consent robust again by enhancing labor’s choices. According to the exploitation objection, labor loses its options because it is propertyless and thus compelled to accept disadvantageous offers under the pressure of necessity. In order to prevent exploitation workers above all need their own property, or at least guaranteed subsistence such that they never feel compelled to accept just any offer, no matter how bad. The proper cure for exploitation, then, is not workplace democracy but a generous welfare state or, more radically, redistribution of property.” (Mayer 2000, 243)

In other words, if the original cause of the exploitative or coercive nature of wage labor is the workers' inability to support themselves, the solution is not to establish workplace democracy but to *give workers (more) resources* (through taxing the upper classes, presumably—more on this in a bit) so that they do not need to work to survive. Indeed, Mayer argues that instituting workplace democracy would even be unhelpful. If we mandate democracy in firms but keep private ownership of capital, workers will have to 'lease' capital from its owners, in which event, "capital can exploit its advantageous position in the credit market to extract exorbitant interest payments when it loans capital to labor. . . . Credit-market capitalism can be as exploitative as labor-market capitalism, which again suggests that democracy itself is not the cure for exploitation" (*ibid*). Similarly, Ian Shapiro argues that employee ownership would actually make workers *more* vulnerable, since their livelihoods would be more strongly linked to the profitability of their firm (Shapiro 1999, 179). In sum, if the problem is workers' poverty and lack of resources, the solution is redistribution, not democracy.

One could object that the problem is not merely the inability of workers to support themselves without a job, but is also the fact that the means of production are owned by a minority. For instance, recall Gould's assertion I quoted above (in footnote 5), that "[i]n capitalism, domination takes the form of control by the capitalist class over the activity of the working class by means of their control over the objective conditions of laboring activity," and this control is a result of their ownership of capital (Gould 1978, 157). In other words, workers are not coerced because they lack resources in general, but specifically because they do not own any *capital*. And while there are several ways to redistribute capital (e.g. nationalization), one way is to give each worker partial ownership rights in the firm where they work. In this way,

redistribution of capital and workplace democracy are linked, so if the problem is specifically the workers' lack of capital, the exploitation argument can justify workplace democracy after all.

Before analyzing this argument, I should clarify the subject under discussion. The question is not what the basis of capitalists' power is (that was the topic of the previous chapter), but precisely who or what *coerces* workers in a capitalist economy to accept working in a hierarchical firm. Even accepting that the capitalist class holds power due to (using Gould's words) their ownership of the objective conditions of laboring activity, how does that enable them to *force* or *coerce* workers into doing their bidding? It appears that owning the means of production (or the conditions of labor) only enables the capitalist to control others if those other people are *working for them*—if I am not working, then I have no need to gain access to the capitalists' property. So in order to say that the workers are being forced or coerced by the capitalist class, it must be the case that, similar to how the victim “has no choice” but to give money to the mugger, people “have no choice” but to work and thus put themselves under the capitalists' control. Thus, the view that owning private property grants capitalists the ability to coerce workers must rely on Holmstrom's exploitation argument or something like it. This is because having the *capacity* to exert power is only coercive if other people have no choice but to *submit* to that capacity. Therefore, just like with Holmstrom's argument, based on this capital ownership argument it appears that capitalism can be made non-coercive by giving workers sufficient resources such that they no longer have to work—and so do not *have* to place themselves under the dominion of a capitalist—to live.

I should give more details as to precisely how a capitalist state could give workers sufficient resources to live. The idea is that the government would implement a welfare program

that gives everyone in the country enough money to support themselves (a “universal basic income”) and/or would guarantee everyone a public sector job with a living wage (a “job guarantee”). These would be funded through taxation, not just of capitalists but also of professional class workers who have relatively high incomes despite not owning the means of production of their job, e.g. lawyers and doctors. There would then be no need for anyone to work (under a capitalist) in order to live, which would invalidate premise #2 of Holmstrom’s argument. However, there would still be an incentive for people to work, since working would earn one money above and beyond the universal basic income. What I want to emphasize is that all of this is possible while maintaining a capitalist economic model, including private ownership of the means of production and hierarchical top-down firms. Hence, Holmstrom’s argument is not sufficient to demonstrate that capitalism is inherently coercive, since it appears her concerns could be allayed by implementing a more robust welfare state.

Another way to assert that the capitalist class coerces workers is to make a Marxist-style argument that labor is a necessary aspect of what it means to be human, and so people would need to work even if it was not required to survive. For instance, in the *Economic and Political Manuscripts of 1844*, Marx writes: “In creating an *objective world* by his practical activity, in *working up* inorganic nature, man proves himself a conscious species being” (Marx 1978, 76). In other words, one could say that the capitalist class would coerce workers even under an expansive welfare state because a human with all their basic necessities met still has a (psychological?) need to engage in productive labor. However, this viewpoint is highly controversial, and even if it is true, it could be resolved by the government implementing a job guarantee, since then every worker would have the *option* of working for the government instead

of a private capitalist. In order to plausibly argue that hierarchical firms are inherently coercive, then, one has to make the case that even having *this* choice is not good enough.

The focal point theory I defended in the previous chapter enables us to make precisely that case. According to the focal point theory, the fundamental issue is not that capitalists own the means of production, nor is it that workers have to work to live. The fundamental issue is that, as I argued in the previous chapter, our society has a focal point that says, “Managers get to order around their employees.” Recall my argument in Chapter 3 that focal points are (at least figuratively) coercive. Focal points are very successful in enabling people to cooperate, and the reason they are so successful is because everyone knows that if they do *not* follow the focal point, cooperation would break down completely. Individuals may *theoretically* be able to disobey the focal point, but in practice they really cannot, because the collapse of cooperation is worse for *everyone* than following the focal point. Therefore, while Holmstrom and similar theorists are correct that capitalism is coercive, the ones doing the coercing are not individual capitalists or even, strictly speaking, the capitalist class. Workers are being (perhaps figuratively) coerced by *the focal point* that mandates managerial autocracy.<sup>14</sup> Similar to the mugging case, workers effectively “have no choice” but to follow the focal point—there is no need to rely on the relatively murky assertion that an individual worker can be coerced by the capitalist class as a whole. To be sure, the focal point gives capitalists power over workers, as “do what your boss says” is one aspect of the focal point. But because the source of this power is *the focal point*, and

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14. This is perhaps similar to Marx’s various assertions that social relations or structures come to be separate from and even dominate individual people under capitalism. For instance, in the *Grundrisse*, he states, “the exchange relation establishes itself as a power external to and independent of the producers. What originally appeared as a means to promote production becomes a relation alien to the producers” (Marx 1993, 146). But I do not have the space to explore this similarity here.

not the capitalists themselves or their property, the capitalists are not themselves the prime movers. Their power and influence derives (mainly) from the fact that almost everyone in a society—the capitalists themselves included—must follow that society’s focal points. Therefore, the only way for workers to gain power is to *change* the focal point.

How does this address Mayer’s objection that economic coercion can be solved by the welfare state? It is true that, arguments that productive labor is necessary to be fully human notwithstanding, people would not *need* to work if there existed something like a universal basic income, and they would not need to work *for capitalists* if the government guaranteed everyone a public-sector job. However, this is only a problem for Holmstrom because she argues that workers are coerced by the *capitalist class*. Due to this, she must find a reason for why workers “have no choice” but to obey some capitalist or other, and the need to work in order to live is the most plausible such reason available. Contrary to Holmstrom, though, I am arguing that workers are (at least figuratively) coerced by *the focal point* that favors managerial autocracy. Therefore, I am able to rely merely on the assertion that (almost) every human wants and needs to cooperate, which the most extensive welfare state would not change. It is irrelevant that with a universal basic income or job guarantee people would have the option not to work for capitalists; what is relevant is that, as long as the managerial autocracy focal point is active, very few have the option *to* work in a *democratic* company. The focal point is (at least figuratively) coercive precisely because it makes this option (among others) very difficult.<sup>15</sup> Similarly, Mayer is wrong that workers would necessarily be equally exploited in “credit-market capitalism” as they are at

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15. This is not to say that a universal basic income or a job guarantee would be pointless. There are independent reasons to have either or both, and in addition, they may help to change the focal point by giving workers more resources to communicate with each other, more time to research alternatives to capitalism, or the like. My point is only that they would not *by themselves* lessen the coercive nature of capitalism; only changing the focal point can do that.

present. As long as the focal point is shifted in favor of the workers by making the bargaining outcomes and economic arrangements that benefit and empower *them* the “prominent” or “obvious” ones, they will be able to confront the capitalists on (at least) equal footing.<sup>16</sup>

This raises the question, if focal points are coercive but necessary for society to function, does that mean all societies are necessary coercive? While this is a very important question, it is far beyond the scope of my essay. The relevant point is that some focal points give power to a small minority, while other focal points diffuse power among a large number. I have been calling the former “dictatorial” or “autocratic” and the latter “democratic.” In our current society, everyone—workers and capitalists alike—is effectively coerced into following a dictatorial focal point in the economic sphere. It is ridiculous to claim that in this situation workers have the “freedom” to decide whether to work in an autocratic or democratic firm. Due to the focal point, they *have no choice* but to work in the autocratic one. If my argument in the previous chapter is correct, we are morally obligated to change our current economic focal point to be more democratic (assuming that we have this obligation in the political realm).

One may still object that, even if we are obligated to change our current focal point, we could change it to “*both* autocratic *and* democratic firms are allowed.” However, while this may seem like an attractive idea, it is unfortunately impossible. Remember that focal points have to be *unique*; they work precisely by designating one option as the “obvious” one, thus coordinating expectations. The proposed focal point does not actually focus expectations on one option. Rather, it declares *all* options equally valid, and therefore fails to coordinate at all—i.e., fails to be a proper focal point. What this objection is really proposing, then, is not to *change* the focal

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16. However, it may still be desirable to end private ownership of capital for other reasons. I will explore this issue briefly in the Conclusion.

point that governs our productive economic arrangements but to *eliminate* it entirely. How would this work? There are various ways to understand what eliminating the focal point would mean, but perhaps the most plausible would be for each group of people to independently decide, completely separate from the rest of society, whether their firm will be run democratically or autocratically. The extent to which this is a plausible alternative is beyond the scope of the present essay. What I can say is that, if eliminating the focal point entirely in this way is both possible and desirable in the economic realm, then we should also do the same in the political realm by letting each country independently decide between democracy and monarchy. If it would be wrong to do this in politics, then it would also be wrong to do it in economics.

### **Conclusion: Expanding Democracy**

This essay stands, in a sense, between social theory and moral philosophy. My main argument has been, *descriptively* speaking, that the power of governments over their citizens and the power of managers over their employees derives from the same source: the need for people to have a focal point in order to cooperate. To demonstrate this, I began by arguing that the most common theory of state power—that it derives from governmental monopoly on (legitimate) violence—is fatally flawed. My arguments were varied, but one way to boil them down is the following: government officials rely on the *cooperation* of others in order to maintain their power. The military and police, who directly wield violence, must cooperate in obeying the officials' orders; the citizens must cooperate by (mostly) following the law, or else order would collapse. The common theory, with its assumption of a fundamentally adversarial relationship between the state and the citizenry, thus requiring the state to assert its power through violent force, cannot explain why those who *directly* wield violence in the police and army follow their superiors or why the citizenry *as a whole* usually cooperates with their government.

Next, I discussed economic power. Neoclassical economic theory asserts that the free market is the most efficient way to organize an economy, and yet all capitalist economies contain a large number of firms, within which hierarchical relationships, not market transactions, determine economic activity. R. H. Coase (along with other, later economists) explains this by showing that, in some circumstances, market transactions are highly *inefficient*. There are several reasons for this, but mostly, it is because making contracts is often extremely time-consuming, and organizing workers into a firm (as opposed to a collection of independent producers) reduces the number of contracts to one: the employment contract. In other words, as I argued in Chapter

4, a hierarchical firm enables the workers to *cooperate* in making commodities without having to spend an undue amount of time negotiating with each other.

After summarizing the concepts of coordination games and focal points in Chapter 3, I brought together states and firms in Chapter 4, and therein made my main argument. I argued that in order for people to cooperate, in any sphere, they need a *focal point*—a solution that seems “obvious” to everyone, a solution everyone expects everyone else to act on. When a group is prone to disagreement about how to interpret their focal point, this often requires them to have a *leader*; specifically, to have the following focal point: “the focal point is whatever the leader says it is (within certain limits).” I argued that the Coase theory of the firm can be understood via focal points, and with the aid of Richard McAdams and others, that the same is true for governmental power. With that, the *descriptive* part of my argument was finished, as I concluded that both state and economic power have the same source, purpose, and function. The *normative* conclusion I drew from this is that, *prima facie*, it means we should have the same sort of power structures for each institution, namely, if we think democracy is the only legitimate form of government, it should also be the only legitimate way to run a firm. The reason for this is that if there are no *morally relevant* differences between state and economic power, it is contradictory to assert that power structures forbidden in the first are allowable in the second.

Chapter 5 was devoted to rebutting various attempts to establish such a difference. I will focus on the final such attempt because it showcases the importance of focal points in understanding how power works. One might argue that states differ from firms because workers should have the *freedom* to decide whether to work in a democratic or autocratic firm, while such a freedom would not be appropriate for states. But if something is a focal point, people usually

cannot freely decide whether or not to follow it. If I want to cooperate, I essentially *have* to follow the focal point—that is precisely why they are effective. So even if a worker would like to work in a democratic firm, if the focal point is “firms are run autocratically,” as it is in the contemporary US, most workers have no choice but to work in an autocratic firm.<sup>1</sup> To put it in Marxist terms, workers *are* exploited, just not by the capitalist class—they are exploited by the *economic focal points* themselves.<sup>2</sup> For this reason, it is not enough to give workers the “choice” of what type of firm to work in. We have to change the focal points.

As I have stressed, I will not directly argue for democracy in either the state or the firm in this essay. At present, the arguments I have provided could also be used to argue that both spheres should be run *autocratically*, or perhaps through some third type of system. But as most Western philosophers, at least, believe democracy is the only legitimate form of government, I think it is reasonable to end my argument here, after demonstrating that economic and state power should be treated the same. In this conclusion, I would instead like to briefly examine some implications of my argument, while assuming that democracy is indeed the only legitimate way to run both states and firms. I will cover three: just how economic democracy should work, what to do about capital, and whether organizations aside from the state and the firm should *also* be democratic.

What would economic democracy look like, precisely? There are a number of different theories about what democracy requires, which I do not have the space to explore here. At a minimum, there must be periodic elections for all the top decision-making positions in the firm,

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1. There are some cooperative firms, but they are rare, so they lack the influence to significantly impact the focal point that supports managerial autocracy.

2. Though to be sure, the capitalist class does benefit greatly from this exploitation.

whether this be a single person (the President or CEO) or multiple (the Board of Directors), and these elections must be open to everyone who works at the firm. Middle managers should also probably be elected by those under them, especially in larger firms, similar to how there are state and local elections in the US and most other democratic countries. However, there may be some legitimate restrictions on who gets to count as a “worker.” For example, perhaps a firm might require that you work there for a specific period of time before being eligible to vote, similar to how immigration procedures can often take several months. As long as this period is not very long, this requirement seems fine. However, it would *not* be acceptable to limit someone’s vote just because they work part-time. What is morally relevant is not how many hours per week someone works, but whether or not they are cooperating in making the firm’s products and are thus under the purview of the firm’s focal points. If they are, they deserve a full vote.

A more difficult question is how to deal with so-called “independent contractors,” people who are not technically employees but still work for the firm. Currently, many firms use independent contractors who cannot take full advantage of the employee protections that remain in US law. But this same tactic would be open to democratic firms, hiring workers as “independent contractors” and thus denying them the vote as they are not full employees.<sup>3</sup> Would it be morally legitimate for a democratic firm to hire non-voting “independent contractors”? On the one hand, firms often make deals with other firms or individuals for short-term services, and

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3. Indeed, some cooperatives that currently exist do this. John Pencavel says that the “degeneration of the cooperative through the substitution of disenfranchised hired workers for departing members and its ultimate reversion into the form represented by the capitalist firm needs to be recognized by the proponents of worker cooperatives as a serious limitation on the notion that workers *as workers* wield authority in the co-op” (Pencavel 2001, 73). This shows the democratic danger in allowing a cooperative to take on too many non-voting “independent contractors.”

it seems unduly limiting to insist that they open up their voting franchise every time they do so. On the other hand, if we allow firms to take on long-term non-voting “independent contractors,” we will essentially have an autocracy (or aristocracy) again, where voting workers wield power over non-voting workers. It is irrelevant that the contractors “consent” to this power since, as I just discussed, people do not consent to focal points. These countervailing considerations make it difficult to formulate a general rule for how independent contractors should be treated in a democratic economy.

It may be helpful to draw an analogy to states. The equivalent of independent contractors in a governmental context is “permanent residents”: individuals who do not technically have citizenship in the country where they live. Many democratic countries require that permanent residents obey their laws but forbid them from voting in elections.<sup>4</sup> It would seem, then, that whatever policies are morally required for permanent residents are also (*ceteris paribus*) what must be done vis-à-vis independent contractors. I do not have the space to discuss that issue here.<sup>5</sup> For this essay, it is enough just to demonstrate that the problem of people who exist in an organization, but do not technically “belong” to it, applies to both states and firms.

Somewhat relatedly, I should also address the problem of *scale*.<sup>6</sup> Companies do not limit themselves to national borders. In the age of globalization there are many huge, powerful multinational firms, with employees who speak different languages and belong to different cultures. Additionally, modern companies often have large and complicated supply and production chains, as well as multiple subsidiaries that are semi-independent from the main

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4. Different countries, and different localities within countries, vary widely on this topic.

5. For some arguments on this topic, see Lenard and Straehle (2012), Parreñas (2015) Chapter 1, Mayer (2005), and Surak (2013).

6. I thank Carol Gould for bringing this to my attention.

company. All these, combined with the issue of independent contractors that I just discussed, can make it difficult or impossible to state with certainty just where the boundaries or “borders” of a modern firm are. This not only appears to make economic democracy extremely hard to implement, but it might even call into question my entire firm/government analogy since the borders of a state, while not perfectly clear, are certainly much clearer than those of a multinational firm.

First, to address the latter suggestion, globalization and the existence of large, complicated multinationals does not threaten my analogy. My thesis is not that governments and firms are the same—clearly they are not—but that there is no *morally relevant* difference between the two. Because their power derives from the same source, their power structures should also be the same. Democracy in a giant multinational may look different from democracy in a nation-state, but regardless of how large and complex a company gets, the basis of its power, and its moral right to hold that power, remains the same.

Even so, would it be absurdly impractical to institute democracy in such a sprawling firm? I will address the two major issues with these sorts of companies in turn: that they are multinational, and that they have complex supply/production chains. For the first, I do not see an inherent reason why democracy cannot be practiced in a multinational company. To be sure, workers from different countries will likely speak different languages and have divergent life experiences—but the same is true for modern democracies, especially large and diverse ones such as the United States or India. There is nothing stopping a company from tallying up votes from workers in both Brazil and China. Perhaps different laws in different countries might make this difficult, but that does not change the *moral* point, it just means that those laws should be

changed. So I do not think that globalization *per se* poses insurmountable problems for workplace democracy.

The issue of long and complex supply/production chains is more difficult. I have already discussed the case of independent contractors, but there are many different types of relationships that a company can have with suppliers that are more extensive than a one-off contract, but fall short of full integration. I have said before that someone deserves voting rights as long as they are subject to the firm's economic focal points. What happens, then, if (for example) a company signs a long-term deal with a giant corporation to supply one (but only one) raw material that the large firm uses to make its products? Particularly if the small company is dependent on the large one to sell its raw materials, it appears subject to the large one's focal points—at least, it is far more subject to them than (say) a one-off customer is—but they are also an independent, (technically) autonomous organization of their own. At what point does a “supplier” or “distributor” become more than just a business partner, and instead become a full-fledged “employee” with voting rights?

While I cannot conduct a full analysis of this topic here, there are two points I can make. First, a very similar issue exists for countries, too. One country's actions can significantly impact the populace of another country, through war, trade, economic sanctions, military occupation, and more. So in geopolitics as well, we can ask at what point a foreign populace becomes “subject enough” to our laws to deserve voting rights, and the answer is not obvious. Second, what is most important is that workers have voting rights in *their own* firm first and foremost. Economic democracy is not the cure for every ill, and it is entirely possible or likely that some democratic firms would be far more powerful than others, absent governmental intervention. It

would certainly be legitimate for a democratic citizenry to impose regulations on their own (democratic) firms, including forcing workers in powerful firm A to allow those in less-powerful firm B to vote in A's elections. There often is not a consistent way to draw a sharp line between firms in a modern economy, so judging when workers should be allowed voting rights in a "different" firm's elections, and when it is enough for their own firm to just negotiate with the other one on (relatively) equal ground, must be done on a case-by-case basis. There are likely no perfect solutions, but again, the same is often true for drawing a line between states. That it is difficult and subjective to apply principles in the real world does not invalidate those principles.

Moving on, I said earlier that regular elections were required at a *minimum*. But is it desirable to have even more extensive democracy in the workplace; specifically, something akin to direct democracy? For example, Carole Pateman quotes the following description of the "composite longwall method" in British mining:

"The group takes over complete responsibility for the total cycle of operations involved in mining at the coal face. No member of the group has a fixed work role. Instead, the men deploy themselves, depending on the requirements of the ongoing group task. Within the limits of technology and safety requirements they are free to evolve their own way of organising and carrying out their task. They are not subject to any external authority in this respect, nor is there within the group itself any member who takes over a formal directive leadership function." (quoted in Pateman 1970, 61).

This method of mining apparently increased both productivity and worker satisfaction (*ibid*).

While a "representative democracy" in firms would result in relatively little change to the structure itself—although it would give workers the power to decide who *runs* that structure—this sort of egalitarian, non-hierarchical working relationship promises a far more radical break with contemporary corporate structure. Would this be justified?

While my analysis here must by necessity be incomplete, there are some observations I can make. Recall my distinction between *rule* focal points and *leader* focal points in Chapter 4. The “workplace direct democracy” envisioned by Pateman does not get rid of focal points altogether—you need some sort of focal point to have any cooperation at all—it just gets rid of the *leader* variety. The egalitarian worker groups would still need some common principles and goals, as well as procedures for making decisions and settling disputes. That said, as long as they have those, it is entirely possible for a group to function with no “leader” focal points. As I argued using Randall Calvert’s theory of leadership, the major reason to have a *leader* (or group of leaders) is to enable people to settle disputes of *interpretation*, to establish some way to settle disputes when the dispute is about what counts as a focal point in the first place. But, as Calvert says, this is mostly a problem for groups that lack a long history, have a temporary membership, and/or face many disagreements about what is right to do. It appears that different firms are vulnerable to this problem to different extents, and in particular, *larger* firms are more vulnerable.

The most influential, or at least the most famous, argument against direct democracy in the *state* is that modern states are far larger than Athens, so it is logistically impossible for each citizen to vote on each piece of legislation. But my theory suggests that size is not the problem, strictly speaking. Rather, the problem is that as the size of a polity increases, the likelihood that it will face constant disagreement about how to interpret focal points also increases. We are far more likely to find a long history, permanent membership, and broad agreement about values in smaller groups than in larger ones. Size is not the only important factor here—degree of turnover and differences in culture or life experience will also make living only by “principle” focal points

harder—but it might be the most important one. So provisionally we can conclude that direct democracy is preferable in small firms, but large firms must rely on representative democracy, at least for their top positions. One alternate possibility for larger firms is a “council” system where the firm is subdivided into a number of smaller groups, each of which is relatively non-hierarchical and self-governing but is still subject to the authority of the Board of Directors, who are elected by the firm as a whole.<sup>7</sup> There are a great many opportunities for experimentation here, but delving into the details would take me too far afield.

The next important question to answer is, what about capital? Recall Robert Mayer’s argument I discussed in Chapter 5, that even if we democratized the workplace, workers would still be exploited because they would remain reliant on the capitalists to supply the means of production. As I proceeded to argue, though, what is important is not who owns the means of production, but which side the focal point benefits. Workers do require access to capital, but similarly, capitalists need the workers’ labor or else their capital will produce no value.<sup>8</sup> As I argued in Chapter 4, power is not inherent to capital; capital gains power because it is favored by society’s focal points (which include, but are not limited to, explicit laws). If we shift the focal points to be equal or worker-favoring, which instituting society-wide workplace democracy would certainly do, workers would be able to lease capital on fair or favorable terms. This is because, as I asserted in Chapter 5, bargains are (usually) a type of Hawk/Dove coordination game, so the result of the bargain is heavily influenced by what the “prominent” or “natural”

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7. The Mondragon cooperative in Spain has a structure like this. There are a number of different cooperatives under the Mondragon umbrella, and workers from all cooperatives meet annually to elect a Board of Directors and a “Congress,” which votes on strategic plans for the entire consortium (Schweickart 2011, 69).

8. They could sell it, but it would only sell for money because the *buyer* expects it to produce value, which again requires labor. The same consideration applies to the value capital gains from speculation.

solution is. Therefore, if democratic firms have to negotiate with private capital owners regarding the terms under which the former will lease the latter's capital, then as long as the focal point for the bargain favors the workers, they would likely not be exploited. This appears to be the solution David Ellerman favors (Ellerman 1992, 21), and it is perfectly justifiable from the standpoint of workplace democracy.

There may be other reasons to object to private capital ownership, though. David Schweickart argues that private control of investment leads to economic instability (Schweickart 2011, 125-133) and environmental destruction (139-151), while his proposed system of public/governmental control of investment (51-58) would not. Alternately, rather than total public ownership, each firm's capital could be collectively owned by all of its workers, which several theorists including Carol Gould (Gould 1988, 250) favor. The upsides and downsides of private ownership of capital are interesting and extremely important. However, they are not directly related to workplace democracy, since democracy is not about *ownership* (strictly speaking) but *control*. Control and ownership are often paired together in capitalism, to be sure, but they need not be. Since it is *control* that needs to be equalized to secure democracy, not ownership, I will speak no further on the topic of ownership here.

The final topic I will discuss is whether my arguments apply to organizations other than governments and firms. In other words, just how far should democracy extend? My argument is based on the fact that power derives from focal points, and since we think the "leader" focal point in a government should be democratically determined, the same applies to any other "leader" focal point. Therefore, it does not apply merely to firms. *Any* organization that contains "leader" focal points must be run democratically, unless there are special considerations not to do

so. There do not appear to be any such considerations for private clubs, nonprofit corporations, and the like. As I argued in Chapter 5, the fact that people “choose” to join these clubs is not morally relevant, since the main issue is not *choice*, but which side the focal points favor. Therefore, I agree with Gould that democratization is also necessary for social and cultural institutions, including museums, hospitals, research centers, the media, and sports teams (Gould 1988, 255), though our arguments for this position differ.<sup>9</sup>

This may seem too extreme, though. People need to work to eat; they do not need to (for example) join a chess club. If a chess grandmaster wants to start a club where they have a permanent leadership position (in exchange for giving lessons), and amateurs are willing to accept this arrangement, what is the problem? But such an arrangement would also be possible democratically, as presumably the grandmaster would simply win every election they run in. All I am foreclosing is arranging things such that a minority of people are given *permanent, irrevocable* positions in the club. In effect, I am arguing that it is morally illegitimate for someone to have membership in an organization while being structurally unable to have any choice over who runs that organization—*whether or not* they even want such a choice. As long as the focal point favors autocracy such a choice is meaningless anyway.<sup>10</sup>

Another difficult question concerns organizations that give orders that must be followed, but where many who follow those orders do not technically “work” for the firm. The most obvious case here is the university. My argument thus far makes it clear that the professors and

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9. I briefly discussed my disagreements with Gould’s argument in the Introduction.

10. I want to emphasize that my arguments here are *moral* and not *legal*. I am asserting it is morally illegitimate for any private club or nonprofit to be run autocratically. Whether or not it should be *illegal* to do so is a separate question. While I do think the size and societal dominance of for-profit firms does necessitate making autocratic firms illegal, perhaps it would be counterproductive to legally ban autocratic clubs. Unfortunately, I do not have the space to explore this question.

staff should have the power to elect the administration (or at least the President)—but what about the students? In a sense, the students are “customers” of the university, and my argument does not apply to customers, as they are not subject to the same focal points as workers. But students are far more tightly tied to the university than the average customer. A large portion of their lives, not to mention their future career prospects, are tied to university decisions. More to the point, their cooperation is required for the university to function at all (student strikes and riots are quite devastating), and so they also participate in the university’s focal points, at least to some extent. So they are not really workers, but they are also not really customers. How should a democratic university treat them?

Since the core issue here is that students and faculty have different interests (policies that help faculty/staff may hurt students and vice-versa), yet depend on each other to accomplish their goals (at a minimum, money for the faculty/staff and education for the students), perhaps the best solution here would be for each group to elect their own ‘governments’ that would proceed to negotiate with each other over university policies, or at least *some* of them, e.g. students likely should not have a say over faculty pay. This way, both groups’ interests would be represented, and (hopefully) neither would dominate the other. This would be similar to a state that gives disproportionate representation to certain minority groups to ensure their interests are properly respected (the faculty being the minority in the university case). An even better comparison might be to public employees’ unions, which are established to make sure the interests of public employees are respected by the citizenry as a whole.

Speaking of public employees, we should also consider the possibility of a democratic army. More than any other organization, the army is intensely hierarchical and top-down. There

is good reason for this: armies depend on their soldiers following orders precisely in order to function. Nevertheless, this does not inherently preclude democracy. It is theoretically possible for soldiers to elect their officers, and then be required to obey all orders (until the next election, at least). There are even historical examples of this; for example, the Soviet Red Army at the beginning of its existence (Reed 1977, 332). Similar to other public employees, the interests of the soldiers do have to be balanced against the interests of the citizenry as a whole, but this is a concern regardless of whether we have a democratic or autocratic army. I see no *prima facie* reason why the army is fundamentally different from any other organization that relies on cooperation to function, and hence tentatively support democratizing the army as well.

The final case I would like to discuss, and perhaps the one that cuts deepest into the fabric of society, is the family. Like the other organizations I have mentioned, the family depends on the cooperation of all its members (children very much included) in order to function. To consider this matter, we need to separate out (a) parents; (b) children who have reached the age of majority; (c) children who have not reached the age of majority. I will briefly discuss the implications of my argument on each group in turn.

(a) Elections are inappropriate and unnecessary in a relationship, especially a monogamous one. This is an area where direct democracy should rule: decision-making power ought to be shared equally among all partners. Importantly, this means that a patriarchal household where the husband is in charge and the wife has to do whatever he says is *inherently* immoral. I want to be clear about what this means. I am not merely saying it is wrong to *force* women to enter patriarchal relationships. I am saying that even a patriarchal relationship a woman “chooses” to enter is immoral. As I have emphasized repeatedly, the issue is not consent;

the issue is whom the focal point favors. If the focal point favors one person, the partnership is autocratic, whether or not both partners consented to be in it. Now, even if the focal point were made egalitarian, it would still be possible that one partner lets the other make all or most of the decisions. The difference is that this agreement could be rescinded at any time, and since the focal point *favors* an egalitarian relationship, society expects this and would not punish it. This would not solve every case of relationship power imbalances, but it would be a start.

(b) While parents lack *legal* authority over their children once the child reaches the age of majority (at least in the contemporary US), they often retain considerable *informal* power. Sometimes this power is the result of genuine love and affection; sometimes it is the result of the child's need for their (often abusive) parent to accept them. Political theory has nothing to say on these matters. What is relevant is when societal focal points declare that the child *ought to* continue obeying their parents into adulthood. Just like any other cooperative organization, adult children and their parents should have equal say in determining how to engage in their joint activities, and our focal points must say that.

(c) Children under the age of majority present perhaps the most difficult question I have faced so far in this conclusion. Currently, US law gives minority children practically no rights vis-à-vis their parents, absent extreme cases of abuse or neglect. There are good reasons for this. Young children and teenagers lack many rational faculties and often literally do not know what is best for them. Still, I think our focal points are too tilted toward the parents' side at present. Parents are also far from perfect, and it seems plausible that children would benefit from gaining more control over their lives (within limits)—at the least, children *sometimes* know what is best for them better than their parents do. Still, their relative lack of rational faculties means that the

relationship can never be truly egalitarian. It appears *prima facie* plausible to say that parents should have full authority when the child is a baby, and that the child should gain more and more as they get older, until they become equal with their parents upon reaching the age of majority. Again, though, this is a complex issue, and I cannot hope to give a full account of it here. But as we have seen, my theory does offer some preliminary suggestions and can serve as a starting point for a future full analysis.

Most democratic theory limits itself to states and governments. While this is vitally important, it has obscured the fact that many non-state organizations in modern-day society are run autocratically, with no more justification than authoritarian governments have. Indeed, for the average person, the decisions made by their boss, parent, or partner likely impact their lives far more than the decisions of their head of government. We cannot claim to live in a democratic society unless democracy extends into the organizations that matter most to us.

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