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I hereby declare and confirm that the following submission is my own work except where otherwise indicated, that it has not previously been submitted for assessment, either at Oxford or at any other institution, and that all sources have been cited appropriately.

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Personalism, persuasiveness, and engagement: A critical realist account of legitimacy and political support

Introduction

One of the core problems of political theory is the *legitimacy* of *power-relationships*, *authority-structures*, and *coercive institutions*. By this, I mean the formulation of arguments that not only explain why such structures are *necessary*, or *justified*, but provide a deeper account of why their expressions of claimed prerogative are *good*, or *acceptable*. The problem of legitimacy is 'core' in the sense that its resolution is a precondition for many of the crucial questions of ethics, politics, public policy, and international relations to even be asked. One of the political questions contingent on its resolution is that of the *support* political agents give to political structures and institutions—specifically, how agents enter into 'ought'-entailing relationships with such structures, and what action-guiding implications the existence of these relationships entails. I suggest that there is currently no overarching account that adequately covers individuals' relationships with political structures, and addresses the real interactions between social agents and the structures that frame their political activity.

Current liberal theorising about political structures tends towards a universalistic view of the *attributes* that make these structures legitimate. It relies strongly on the assumed *inherence* or *context-independent validity* of these attributes, often framed in reference to a criterion of reasonability, and so does not provide an account of *what it is about these attributes rather than others* that makes them integral to legitimacy. Liberal accounts thus lose sight of two crucial features of political thinking, without which their *ecumenical appeal* outside liberal discourse about political engagement is sharply reduced[1]. First, liberal theory cannot accommodate the sheer *radical pluralism* of agents' ethical and political views: liberalism cannot countenance the possibility that agents might find its particular brand of discourse unappealing, and classes disagreement with its meta-norms as transcendentally 'wrong', instead of recognising the frailty of its monopoly-claim over 'the good' and 'the right'. Second, liberalism

[1] A theoretical or philosophical position with 'ecumenical appeal' is one that is extensively compatible with, or conceptually proximate to, as large a number of the views held by 'real' agents as possible—and, for that reason, likely to 'resonate with' as many agents as possible themselves (see I.B.1, II.4, III.4).

places insufficient importance on the *role of subjective agency* in the development of agents' views: liberal theory sits uneasily with hermeneutic paradigms that depict knowledge as *created*, rather than *found*, and consequently fails to consider agents as *producers*, rather than *consumers*, of ethical and political thinking.

At the same time, liberal accounts elide the distinction between a structure's being legitimate and the existence of a relationship of support—phrased in liberal accounts as *obligation*—between the structure and the agents within the claimed jurisdiction of its coercive authority. Liberalism bootstraps its conception of legitimacy to include attributes which it specifies that agents *ought* to value, and which therefore *necessarily* command a duty of support on the part of agents—i.e., obligations are implicit in liberal conceptions of *value*. In this sense, liberal theory erodes the significance of individual agents' *choice* regarding whether to *agree* to, *obey*, and *support*, the forms of coercive authority with which they are confronted, or which they have helped instantiate. Similarly, the effect of the heavy focus on rights and duties in liberal thought has been that its discussion of political support is reduced to *no more than* obligation, ignoring other *vernacular* aspects of political dedication that do not fit as comfortably into the abstract rationalism of liberal paradigms—including allegiance, commitment, and loyalty.

My thesis seeks to challenge the dominance of liberal accounts of legitimacy and support, and to remedy the faults I identify in the literature with a rival account rooted in critical realism. My overarching aim is to shift the focus away from ideal-theory hypotheses about *what defines* a 'perfect' structure, towards *how agents think about and approach* politics and ethics. I therefore follow my overview of the *status quo* of liberal theorising about legitimacy and political support with four *methodological* criticisms of the liberal approach: on the liberal treatment of agents with divergent views; the liberal conceptualisation of legitimacy; the blurring-together of legitimacy and political support; and political praxis concerns (part I). I outline a rival critical realist methodology to underpin my account, emphasising its treatment of politics as a conflictual 'game', and its consequent focus on *praxis* criteria of success. I extend this discussion into a *personalist* account of agents' political ontology[2], and its implications for a treatment of individual political agency that aspires to ecumenical appeal (II). On this basis, I outline a procedural framework of *legitimacy as persuasiveness* that focuses

[2] I use 'personalism' to indicate a *methodological* approach that recognises the subjective, self-conscious, relationally immediate nature of human thinking and action; I am *not* attempting to establish any conceptual link to the various theological or moral doctrines of the same name. cf. Thomas D. Williams and Jan Olof Bengtsson, 'Personalism', *Stanford Encyclopedia of Philosophy* (2009).

on the way agents acquire, present, and exchange ethical and political beliefs in the political context. I defend my account against several possible liberal criticisms, and argue for its superiority on both theoretical and praxis grounds (III). Finally, I explore the implications of this conception for the ways in which agents *dedicate themselves to obeying* authority-structures, and for the connections of *support* that arise between agents and structures, highlighting the importance of continuous *engagement* to fully recognise the role of subjective agency in political decisions (IV).

A brief comment on my terminology: throughout my analysis, I refer to the entities I am explaining—the *legitimanda* wielding political authority—as 'political structures', 'authority-structures', or similar. In doing so, I am deliberately shying away from the literature's tendency to refer predominantly to 'states' in Westphalian terms, or at most 'supranational institutions' in cosmopolitan theory. This tendency ignores not only the *existence* of parallel higher- and lower-level tiers of power-concentration and systematised coercion-obedience relationships, but also their *significance* for agents' political activity in different contexts. The implicit Weberian character of the current state-*Idealtyp* as the only entity that possesses a "monopoly of the legitimate use of force"[3] glosses over the varying degrees of formalisation which structures can have while still being eligible for inclusion in legitimacy-support analysis. Hierarchies of coercion and obedience are socially pervasive, from the *institutionally complex*, *geospatially bounded*, and *durable* to the *quasi-informal*, *virtual*, and *transient*—and such variations in certainty, fixity, and regularity require a theoretical appreciation which current thinking does not provide. I cannot offer a complete response to this lacuna here (see IV.2), but I encourage my account below to be read in a way that bears its existence in mind.

[3] Max Weber, 'Politics as a Vocation', in Weber, *The vocation lectures*, David Owen, Tracy Strong, and Rodney Livingstone (eds.) (Indianapolis, IN: Hackett Publishing, 2004), p.33.

I. The limits of liberalism

> Every general theory of justification remains peculiarly abstract in relation to the historical forms of legitimate domination. ... Is there an alternative to this historical injustice of general theories, on the one hand, and the standardlessness of mere historical understanding, on the other?——Jürgen Habermas, 'Legitimation Problems in the Modern State'[4]

In this part, I address one overarching question: *Are liberal conceptions of legitimacy and political support adequate*? In other words: Do liberal theories of 'political obligation' cover all aspects of current vernacular thinking about relations between political structures and agents, or are there 'remainders' of political thinking left over which they fail to theorise, or where their interpretation diverges significantly from the political 'real'[5]? I aim to show that the existing arguments both for and against individual agents' being bound by political obligations share a set of common features derived from the grounding assumptions of liberal ideology—and that these features prevent liberal political obligation theories from enjoying 'ecumenical appeal' beyond a narrow tranche of Western political philosophy.

I start with an exposition of the 'liberal position'—i.e. what makes *any* theoretical position 'liberal', and what liberalism states substantively about the problem of legitimacy and political support (I.A). I then argue that the shared liberalism of the existing accounts exposes them to three criticisms: (1) liberal unclarity regarding its treatment of the audience to which the accounts are addressed; (2) misuse of the *terminology* of (a) legitimacy and (b) support; and (3) liberalism's ideological *inadequacy for political praxis* (I.B). The arguments I give for rejecting the liberal accounts will also act as the guiding framework for my subsequent formulation and development of an alternative conception of legitimacy and political support.

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[4] Jürgen Habermas, *Communication and the evolution of society*, Thomas McCarthy (tr.) (Cambridge: Polity Press, 1991), p.205.

[5] I use the phrase *the 'real'* throughout to refer to external reality, as it *is*, and as it is *perceived by agents* over the course of their 'lived experience'. I gloss over Lacanian or Žižekian distinctions between Real, Symbolic and Imaginary modalities within this reality, in favour of a narrow focus on the social and political aspects of reality *as these are conventionally understood*, which are typically the objects of analysis in political theory and philosophy. cf. Bonnie Honig and Marc Stears, 'The new realism: from *modus vivendi* to justice', in Jonathan Floyd and Marc Stears (eds.), *Political Philosophy versus History? Contextualism, Real Politics and Contemporary Political Thought* (Cambridge: Cambridge University Press, 2011), pp.178-81; Slavoj Žižek, *On Belief* (London: Routledge, 2001); Slavoj Žižek, *The Parallax View* (Cambridge, MA: MIT Press, 2006).

A. Liberal theories and liberal critiques

The liberal narrative regarding the historical development of a philosophical tradition of 'political obligation' is undoubtedly the dominant account in Western political theory. The percolation of a very specific strand of Enlightenment thought into the domain of real politics—through the influence of thinkers like Pufendorf, Locke, Montesquieu, Hutcheson, Hume, Rousseau, Kant, and J.S. Mill, and the direct actions of social reformers and lawmakers such as Jefferson, Paine, Lafayette, Humboldt, Bastiat, Cobden, T.H. Green, and Hobhouse—has given much of the theoretical innovation and social progress in the 19th and 20th centuries a particular 'liberal' spin[6]. The process of creating a coherent narrative has led, further, to the co-opting into liberal theory of accounts of legitimate political authority and binding support whose authors either pre-date the Enlightenment or would have been unlikely to have seen themselves as self-consciously contributing to the emergence of a 'liberal trend'—including Socrates, Aristotle, Cicero, Hobbes, Spinoza, Burke, and Hegel. A question therefore arises regarding what features these various theories share that allow them to fit together in a broadly unified ideological "family resemblance"[7]—and how these features constitute a *liberal* framework in particular. In this section, I will thus preface my discussion of the liberal theories and critiques with a brief elaboration of the main characteristics of the liberal ideology that I will later criticise.

1. *The liberal ideology*

Over the course of its ideational development, liberalism has accumulated an increasingly complex and diverse set of core principles, reflecting both the fluid priorities of its audience among practical political agents, and the need to respond to, or incorporate, parallel developments in political theory and real politics. Liberalism has shifted from the original 'classical liberal' focus on *liberty*, *property*, and *constitutional government*, via the 'social liberal' aims of *stability*, *dispersion of power*, *representative government*, and the stipulation of *civic and personal rights and freedoms*, to the most recent 'new liberal' concern with *social justice*, *multiculturalism*, *free trade and*

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[6] Charles Taylor, 'Cross Purposes: the Liberal-Communitarian Debate', in Nancy Rosenblum (ed.), *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989), p.163; Gerald Gaus and Shane D. Courtland, 'Liberalism', *Stanford Encyclopedia of Philosophy* (2010), §1.1.

[7] Ludwig Wittgenstein, *Philosophical Investigations*, G.E.M. Anscombe (ed.) (Oxford: Blackwell, 2001), §67.

development, *human rights*, and the *equalisation of status and wealth*[8]. During this ideological evolution, liberalism has confronted and adapted to the constant emergence of new social and political phenomena—*mass enfranchisement* and the *professionalisation of politics*, *industrialisation* and the *rise of labour interests*, growing *global interdependence*, the increased scale and effects of *power projection*, and recent *resource sustainability* concerns—by seeking to colour their adoption into vernacular awareness and perception with a distinctive liberal interpretation[9]. The result of over 250 years of ongoing ideational revision, "colonisation", and expansion has been the emergence of detailed, intricate, and (significantly) non-neutral liberal accounts of value[10]. Though their ranking is subject to major disputes between the different 'liberalisms', the liberal values tend to include: *life*, *liberty*, *peace*, *dignity*, *bodily integrity*, *rationality*, the *normal development of basic capabilities*, the *fulfilment of interests and purposes*, the *valuation of society*, and *subjective satisfaction*[11]. Likewise, liberalism disvalues any *exigent lack* of these, usually represented by *death*, *poverty*, *conflict*, *humiliation*, and *lasting injury*[12]. The aspiration to adhering to these values and avoiding these disvalues suggests a set of liberal virtues towards which the 'conduct' of agents, society, and politics should aim. For agents, these include *loyalty*, *dutifulness*, *law-abidingness*, *self-development*, and *rational self-direction*; for society, *independence* and *tolerance*; and for politics specifically, *leadership*, *citizenship*, and *public reason*[13].

One legacy of liberalism's evolution from multiple traditions—including humanism, the Protestant Reformation, and Enlightenment rationalism[14]—is that the liberal account of *what agents value* rests on a sizeable set of presumptions, or "background conditions"[15]. Liberal values are seen as inherently diverse and plural in two senses: (1) liberalism does not identify any particular value as prior or paramount—all those listed above are important for its overall constitution; (2) each value is, in turn, open to choice, contestation, and multiple interpretations[16]. However, this multifacetedness of value is not all-inclusive—the liberal tradition imposes a series of constraints that serve to retain and perpetuate the liberal 'flavour' of 'the good', 'the right', and 'the

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8 Liberal International, 'The International'; cf. Shaun Young, *Beyond Rawls: an analysis of the concept of political liberalism* (Lanham, MD: University Press of America, 2002); John Zvesper, *Nature and liberty* (New York: Routledge, 1993); Gaus and Courtland, §§2.1-3.

9 Andrew Gould, *Origins of liberal dominance* (Ann Arbor, MI: University of Michigan Press, 1999); John Gray, *Liberalism* (Minneapolis, MN: University of Minnesota Press, 1995).

10 William Galston, *Liberal Purposes: goods, virtues, and diversity in the liberal state* (Cambridge: Cambridge University Press, 1991), p.165.

11 Ibid., pp.174-6.

12 Ibid., p.168.

13 Ibid., pp.221-7.

14 cf. Taylor, p.175.

15 Galston, *Liberal Purposes*, pp.169-72.

16 Gaus and Courtland, §3.3.

virtuous'. A primary constraint is that of *secular materialism*: liberalism is only interested in temporal and physical concerns, not spiritual or praeternatural criteria of value[17]. At the same time, liberalism emphasises the key role *reason* plays in subjective valuation: liberalism aims to abstract away from the uncertainty, indeterminacy, and emotionality of real politics to achieve *dispassionate*, *rationalist*—or, more strongly, *rational*—ideal agreement on the criteria of meaning, truth, goodness, and rightness[18]. Thirdly, liberalism engages in a 'finality quest' regarding its set of values: by aiming for "*ultimacy*" and stipulating that the values "are not themselves to be justified in light of still 'higher' principles", liberalism decontests them as *ends* rather than *means*—"the termination of argument as well as the ends of striving"[19]. In the liberal tradition, then, a brand of pluralism constrained by a material conception of well-being, 'enlightened' modes of thinking and reasoning, and a belief in certain values' fixed deontic merit, has emerged as the mainstay of theorisations of the 'real'.

A major feature of the historical evolution of the liberal tradition has been the attempt by authors working within it to separate out the valence of its core values and presumptions from their original importance to real agents in real contexts—i.e., to let liberal ideology step outside its own contingent historicity. Instead of defending *merely the significance* of "traditional certitudes" like the "absolute value and dignity of human personality", or the existence of "impenetrable boundaries that the state may not pervade", liberal theorists (partly) self-consciously embarked on a more ambitious project of establishing that "liberal principles are, or ought to be, untouched by history, even by [...] experimental reason" and that they be instead "secured to transcendental standards and eternal truths, beyond the contaminating reach of untrustworthy human judgment"[20]. The modern continuation of this tradition by such authors as Rawls and Dworkin has exchanged transcendentalism for anthropocentric terms of empirically plausible consensus, characterised by "prediscursive rationality (the veil of ignorance) and a convergent reasonableness (the overlapping consensus)"[21]. The resulting paradigm of 'political liberalism' thus claims ahistoricity by virtue of the universal appeal of its substantive pluralism and procedural neutrality—and establishes itself as arbiter over the "specific appeal of other doctrines", which it "undercut[s] either by excluding them as unreasonable or by

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17 Ibid., §1.3.
18 Michael Freeden, *Liberal Languages: ideological imaginations and twentieth-century progressive thought* (Princeton, NJ: Princeton University Press, 2005), pp.29-30.
19 Galston, *Liberal Purposes*, p.172.
20 Freeden, *Liberal Languages*, p.29.
21 Ibid., p.33.

reducing them—through revealing them as congruous with political liberalism"[22]. Contemporary liberalism thus seeks to remove itself, and its core principles, from the anarchic ideological competition from which it emerged, sacrificing its argumentative vitality in exchange for a 'default position' of ideational hegemony, decontestation, and consolidation within vernacular political thinking[23].

2. *Liberal theories of legitimacy and 'political obligation'*

When applied to political legitimacy and support, liberal values and presumptions shape the characteristics of 'truly' legitimate authority-structures and obligated agents in a very particular direction. Liberal accounts of *what it means for an authority-structure to be legitimate* rely extensively on the constraints liberalism places on the substance, mode, and purpose of political discourse. Some, such as those grounded in *reasonable consensus*, appeal to the liberal virtue of public reason-giving to argue that a legitimate structure is one with substantive attributes *that reasonable agents could agree to*[24]. The suggestion is that the hypothetically public nature of such determination would weed out agents' antisocial or idiosyncratic tendencies, leaving an "overlapping consensus" of 'core' views held *universally* across "comprehensive doctrines"[25]—with the implied expectation that such acontextual, intersubjective views would conform to the tenets of political liberalism. Meanwhile, *instrumentalist* accounts, such as Raz's "normal justification thesis", suggest that the primary virtue of legitimate authority is that it enjoins agents to "better [...] comply with reasons which apply to [them]" *independently already* than they would if they were "trying to follow the reasons which apply to [them] directly"[26]. In other words, an authority-structure is legitimate if it effects a situation where (broadly) the 'social state' which liberalism favours is brought about more successfully than it would be *without the structure*. Lastly, the 'democratic turn' in recent political history has led to liberalism's adoption of *democracy* as a ground for legitimacy, on the basis that it provides the best way for agents to fulfil their interests and purposes, and thus derive satisfaction from their status within society[27]. Democracy, under this view, becomes a useful way to balance the *individualising* and *totalising* tendencies within liberalism—reflected in its

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22 Ibid., pp.36-7.
23 Guido de Ruggiero, *A History of European Liberalism* (Boston, MA: Beacon Press, 1927), p.359.
24 John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), pp.48-53, 133ff, 212ff.
25 Ibid., pp.48-65, 133ff, 174-94, 289ff.
26 Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986), p.56.
27 cf. Peter Singer, *Democracy and Disobedience* (Oxford: Oxford University Press, 1974); Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999); Thomas Christiano, 'The Authority of Democracy', *Journal of Political Philosophy* 12:3 (2004), pp.245–270.

valorisation of part-conflicting concepts such as agreement, liberty, and rights on the one hand, and association, solidarity, and dutifulness on the other[28].

A contemporary statement, then, of what an authority-structure *must be like to be legitimate by liberal lights* cannot *just* seek to satisfy the neo-Hobbesian 'first question of politics' through the "securing of order, protection, safety, trust, and the conditions of cooperation" in the face of instability and uncertainty[29]. Liberal legitimacy accounts move beyond the minimal safety-considerations associated with such a restrictive "liberalism of fear"[30], and seek to outline a more ambitious *essentialist characterisation* of the conditions by which authority-structures can satisfy the various forms of justification—bootstrapped into concordance with liberal ideology—outlined above. Typically, liberals hybridise these justifications, arguing approximately that, for an authority-structure to be legitimate, it "must be democratic, must be tolerably just, and not engage in wholesale violations of rights"[31]. These precise characterisations, in turn, narrow down the possible grounds for '*political obligation*': indeed, liberalism tends to erode the distinction between legitimacy and obligation to such an extent that much of the work towards establishing a liberal theory of political support is done by these characterisations[32] (see I.B.3). Nonetheless, it is possible to identify five rival strands in liberal 'political obligation' theory, differentiated by the fundamental principle that grounds the obligations: gratitude, fair play, associative membership, natural duty, and consent.

Gratitude theory—at best, a loose conception—argues that *receiving benefits* from an authority-structure entails an obligation of gratitude not to act contrary to the structure's interests; and since failure to comply with the law falls into this category, citizens have an obligation of gratitude to comply with the law. The gratitude account of political obligations has its origins in Plato's account in *Crito* of the reasons Socrates gives for not attempting to evade his death sentence—one of which he names as the *unfairness to his fellow citizens* of breaking Athenian law after having benefited from others' abiding by it all his life[33]. The modern liberal 'spin' on this account has been to transfer the 'unfairness' from fellow citizens onto the institutions of the *Rechtsstaat*—breaking the law is no longer seen as injurious to other citizens' interests, but to the

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[28] Lois McNay, *Foucault: A Critical Introduction* (Cambridge: Polity Press, 1994), pp.119-23.

[29] Bernard Williams, *In the beginning was the deed: realism and moralism in political argument* (Princeton, NJ: Princeton University Press, 2005), pp.3-5; Honig and Stears, pp.191-4.

[30] Judith Shklar, 'The Liberalism of Fear', in Nancy Rosenblum (ed.), *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989); Williams, *In the beginning was the deed*, pp.55, 59-60.

[31] George Klosko, *Political Obligations* (Oxford: Oxford University Press, 2005), p.9.

[32] Richard Dagger, 'Political Obligation', *Stanford Encyclopedia of Philosophy* (2010), §2.3; cf. Bhiku Parekh, 'A Misconceived Discourse on Political Obligation', *Political Studies* 41:2 (1993), p.240.

[33] Plato, *Crito*, C.J. Emlyn-Jones (ed.) (London: Bristol Classical Press, 1999), 54c.

essentially separate, normatively prior interests of an anthropomorphised, systematised state-entity[34]. Moreover, the 'goods' which citizens receive from the structure, and for which they are obligated to show gratitude, are shifted from merely *legal security* to a much broader set of 'benefits' that tally more closely with the liberal values described earlier. At the very least, the structure is assumed to provide conditions for the *development of basic capabilities* and *fulfilment of interests and purposes* in a way that reflects the historical liberal shift towards social justice and human rights discourse.

Fair play theory states that all those who participate in a reasonably just, mutually beneficial cooperative practice are obligated to bear a fair share of the burdens of the practice. In a sense, fair play accounts are a more modern restatement of gratitude theory, as they refer explicitly to situations in which "a number of persons conduct any *joint enterprise* according to rules and thus restrict their liberty, [so that] those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission"[35]. Many of the key phrasings of this account would be impossible without historically-contingent innovations in the liberal narrative. The portrayal of *state*-type authority-structures as *joint, cooperative enterprises* is as much a response to recent communitarian theoretical critiques of liberal individualism as to real challenges to late-19th-century social-liberal hegemony from collectivist movements such as anarchism, syndicalism, and fascism[36]. The *concern for rules* refers both to the rights- and liberties-protecting aspect of neo-Roman accounts of the 'rule of law', and to the rationalist Weberian *Idealtyp* of formalised, dispassionate bureaucratic governance[37]. The *opposition to free-riding* hinted at by the "right to a similar submission" stems from the materialist, economistic turn of 19th/20th-century liberalism—which also fuels the debate about *excludability* in goods allocation[38]. Finally, the recent moves to portray the benefits a *liberal state* provides as "presumptively beneficial" and "indispensable for satisfactory lives" invoke the liberal drive for *reasonability* to attain *conceptual ultimacy*[39].

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[34] A.D.M. Walker, 'Political Obligation and the Argument from Gratitude', *Philosophy and Public Affairs* 17:3 (1988), p.205ff.

[35] H.L.A. Hart, 'Are There Any Natural Rights?', *Philosophical Review* 64:2 (1955), p.185. Emphasis added.

[36] Freeden, *Liberal Languages*, p.21.

[37] Joseph Raz, 'The Rule of Law and its Virtue', *The Law Quarterly Review* 93 (1977), p.195; cf. Max Weber, *Economy and Society*, G. Roth and C. Wittig (eds.) (Berkeley, CA: University of California Press, 1978); Weber, 'Politics as a Vocation'.

[38] Gould, *Origins of liberal dominance*, p.3ff; cf. G.K. Shaw, *Keynesian Economics: The Permanent Revolution* (Aldershot: Edward Elgar, 1988); Frédéric Bastiat, *Economic Sophisms*, Arthur Goddard (ed.) (Princeton, NJ: D. Van Nostrand, 1964).

[39] Klosko, p.6.

Associative membership theory can be seen as a recasting of the ethos of gratitude and fair play theories—it relies on the *phenomenon of group membership itself* as the source of obligations to others, while also accepting that acquiring membership is *not necessarily a voluntary process*. In a sense, the strong focus in associative membership accounts on the *object* (the structure), as opposed to the *subject* of obligations (the agent), could be seen as a narrowing-in on the liberal response to the communitarian and collectivist challenges identified above. Drawing an analogy between political communities, friendship groups, and the family, associative membership accounts postulate a conception of membership that entails obligations *regardless of such membership's voluntariness*. In place of the intersubjectivity or relationality that characterises non-liberal accounts, however, liberal associative theories rely on the *immutability* of inherent identity, connectedness, and belonging as the foundation for these 'natural' obligations[40]. With this analogy, the hegemony of the historically-contingent social construct of the 'state' is aggressively decontested—to the extent that agents are meant to see citizenship and the obligations it entails as 'natural', necessary, unavoidable, and even 'good'. At the same time, liberal associative accounts expand the *content* of agents' obligations from merely obeying an authority-structure's *laws* to complying with its *norms*. Given the liberal characterisation of the transcendent state-*Idealtyp* as democratic, socially just, and concerned with rights, this shift from case-specific obligations to a broader 'ethos' of obligation again highlights the consistent liberal bid for ahistoricity.

Natural duty theory denies the existence of political obligation *qua se*, arguing instead that agents are subject to an (equal) involuntary *natural duty of justice* in the face of a parlous state of nature, which grounds compliance with and support for *just* authority-structures. Under Rawls' original formulation, the natural duty "requires us to support and to comply with just institutions that exist and apply to us"[41]—and, like the pre-voluntary nature of structure-membership according to associative theories, the duty is "fundamental, since it binds citizens generally and requires no voluntary acts in order to apply"[42]. Apart from the obvious rhetorical effort to transcendentalise the duty of justice by labelling it "fundamental" and "natural", this account seeks to remove the *definition* of the duty from ideational competition as well—both as a duty of *justice*, rather than a duty of *allegiance* or *integrity* (for instance), and specifically of

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[40] John Horton, *Political Obligation* (London: Macmillan, 1992), pp.150-51; Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), p.206; Michael Hardimon, 'Role Obligations', *Journal of Philosophy* 91:7 (1994), p.347.

[41] John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999 [1971]), p.99.

[42] Ibid., p.100.

'justice' in the specific 'new liberal', neo-Kantian sense of justice-as-fairness which Rawls endorses. A thinner formulation is Wellman's variant of 'samaritanism', where "legal obedience is required as one's fair share of helping to rescue others from peril"[43]. Though 'peril' is left under-defined in this account, it presumably includes at least the endangering of *life* and the *development of basic capabilities*, and possibly the absence of other liberal values as well. Most significant, however, is the accounts' shared assumption that it is *state-like legal institutions* that are the best instruments of supporting justice or avoiding peril—a clear embodiment of liberalism's rationalist faith in the uniqueness of *laws* as the catalyst for liberal social perfectionism.

Consent theory rests holds that structures are only legitimate, and obligations only arise, if agents commit to them in an intelligible way—usually through a form of official-institutional contract. The focus of strict consent theory is predominantly on the *fact* of whether a given agent has *formally accepted* the obligations towards a given structure, and less on the *characteristics of the structure* itself[44]. While this may make consent theory perhaps the most 'liberalism-independent' of the five strands, it tends to rely on claims about the ultimacy of valuing consent as an exercise of *positive liberty*, and *keeping contracts* as a manifestation of the *socially valuable* practice of *making promises*. However, the agent- and act-centrism of such theories of *explicit consent*—and of its indirect, implicit parallel, *tacit consent*—has been eroded by updated forms of *hypothetical consent* theory to counter criticisms from Hume onwards that strict consent is too stringent an ideal, and too rare in reality, to adequately capture how agents *actually* acquire obligations[45]. Instead of theorising *whether* agents *did agree*, or *would have agreed had they been asked*, modern consent theories focus on *what agents reasonably ought to agree to*—a shift towards a substantive characterisation of the *object* of consent[46]. The replacement of an explicit 'statement of consent' with non-stylised, formal, publicly recognised *proxy actions*, such as voting or using public services, represents the colonisation of *individual action* by liberal-democratic conceptions of the *state*. The meaning of 'consent' is dissipated and immediately

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43 Christopher H. Wellman and A. John Simmons, *Is There a Duty to Obey the Law?* (Cambridge: Cambridge University Press, 2005), p.45.

44 cf. Harry Beran, *The Consent Theory of Political Obligation* (London: Croom Helm, 1987).

45 David Hume, 'Of the Original Contract' and 'On the Origin of Government', in Hume, *Essays Moral, Political, Literary*, Eugene F. Miller (ed.) (Indianapolis, IN: Liberty Fund, 1987), pp.37ff, 469-73; David Hume, *A Treatise of Human Nature*, David Fate Norton and Mary J. Norton (eds.) (Oxford: Clarendon, 2007), III.ii.7-10; A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), ch.3-4.

46 T.M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998), pp.4, 105-6, 192ff; Peter Steinberger, *The Idea of the State* (Cambridge: Cambridge University Press, 2004), pp.218-20; Margaret Gilbert, *A Theory of Political Obligation* (Oxford: Oxford University Press, 2006), p.290; Mark Murphy, 'Surrender of Judgment and the Consent Theory of Political Obligation', in William A. Edmundson (ed.), *The Duty to Obey the Law* (Lanham, MD: Rowman & Littlefield, 1999), pp.320, 330.

decontested, away from an ideologically neutral, generic act of commitment, towards specific actions rigidly framed by a conception of structures as *welfarist* and *democratic*, and of agents as *rational* and *convergent in social-liberal preferences*.

There have been recent moves to develop *pluralistic hybrids* from these five theory-types, usually combining aspects of fair play, associative membership and natural duty theories, with the rationale that each principle is too weak a foundation for obligation by itself. This is an archetypal example of liberalism attempting to broaden its justificatory base to include factual pluralism and diversity in different grounds for political obligation. It recognises that the problem of obligation has multiple aspects, each of which will apply to different degrees in different contexts, and that members of a structure will have varying relations to its laws and norms[47]. Nevertheless, the pluralism of these hybrid justifications is still restricted by the liberal logics of materialism, rationalism, and the appeal to ultimacy. More to the point, the principles they combine are still taken from the five liberal 'strands' above—so I will treat these hybrids as merely refined *extensions* of the 'core' theories I have outlined.

3. *Liberal critiques of 'political obligation'*

The most vehement criticism of these theories from within the liberal tradition comes from proponents of philosophical anarchism. Anarchist critiques take two forms: *a priori* and *a posteriori*. The *a priori* form "maintain[s] that it is impossible to provide a satisfactory account of a general obligation to obey the law" [cf. Wolff], on the basis that any such obligation would contravene the "primary obligation" of autonomy, which *a priori* anarchism defines as "the refusal to be ruled"[48]. The *a priori* anarchist justification for this obligation rests on individuals' factual "capacity for choice, and therefore for freedom", and the need for individuals to take responsibility for the exercise of this capacity—in other words, a *duty* to act autonomously. By doing so, Wolff is opposing to the 'natural' values defended by the liberal accounts (justice, association, promising, &c) a new ahistorical, transcendent principle, namely the *duty to take responsibility for one's capacities*. The grounds for this duty lie in individuals' ascribed "capacity to reason about [their] choices"[49], and the further implied assumption that individuals have moral ownership over any action explicable by reference to its *derivation from processes of reasoned thought*. Not only is this line of

[47] Steinberger, p.11; cf. Gilbert; Klosko; Jonathan Wolff, 'Political Obligation: A Pluralistic Approach', in Maria Baghamrian and Attracta Ingram (eds.), *Pluralism: The Philosophy and Politics of Diversity* (London: Routledge, 2000).

[48] Robert P. Wolff, *In Defense of Anarchism* (Berkeley, CA: University of California Press, 1970), p.18.

[49] Ibid., p.12.

argument deeply rooted in the 'new liberal' tradition of achieving reasonable normative consensus through *rational thinking*, but it exhibits another clear attempt to establish the ultimacy of liberal values, most obviously *liberty*, the *fulfilment of interests and purposes*, and *subjective satisfaction*.

The *a posteriori* form of anarchism has the "more modest" aim of showing not that creating a justification of political obligation is *impossible*, merely that none of the extant accounts are satisfactory. Its criticisms focus strongly on the supremacy of individual agency, derived from the *atomistic individualist methodology* for which communitarians have often criticised liberal theory[50], as well as the *subjectivity* of preferences over the many liberal values. Accordingly, *a posteriori* anarchist critiques of liberal 'political obligation' theories emphasise their apparent 'agency deficits'. (1) Gratitude theory fails to take into account the *personalism* of relations of gratitude, as well as the requirement of *intentionality* to underpin morally valent accordance of benefits. (2) Fair play theory blurs the significant difference between *receiving and accepting benefits*. (3) Associative membership theory sees social relations inside structures as much closer and more intimate (and more conducive to paternalism) than they actually are. (4) Natural duty theory fails to *particularise* political obligations from their *general existence* to their application to *individual agents* in *specific contexts*. As a result, *a posteriori* anarchism argues that "only those relatively few people who have explicitly committed themselves to obey the law [...] have anything like a general obligation to obey the laws under which they live"[51]—even though it accepts the rarity of such commitment in reality.

The 'state of play' in liberal theorisation of legitimacy and political support thus sees either strict consent or a hybridisation of the other foundations for 'political obligation' as the 'best bets' for justifying the authority of coercive structures. Both approaches have their defects, which I turn to in the next part of my analysis, but together they manifest two intriguing tendencies which the rival account I advance seeks to develop further. (1) The resilience of explicit consent theory suggests that *focusing on individual agents* offers a promising way of analysing the *mechanisms* of legitimacy and support. (2) The move of hybrid accounts towards a *multiplicity of foundational principles* indicates a pull towards *pluralism* which is worth integrating into the *substantive characterisation* of legitimacy and support.

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[50] cf. Taylor, pp.159-82; Alan Ryan, 'The Liberal Community', in John W. Chapman and Ian Shapiro (eds.), *Democratic Community, Nomos XXXV* (New York: New York University Press, 1993), pp.91-114.

[51] Dagger, 'Political Obligation', §3.1; cf. Joseph Raz, *The Authority of Law* (Oxford: Oxford University Press, 1979), ch.12; A. John Simmons, *Justification and Legitimacy: Essays on Rights and Obligations* (Cambridge: Cambridge University Press, 2001), ch.6.

B. Comment: the problems with liberal accounts

The liberal arguments for and against 'political obligation' exhibit a series of weaknesses that inhibit their ability to theorise how agents think about legitimacy and support vernacularly, and how they approach them in practice. Some of these are *systemic* to liberalism, while others result from apparent misunderstandings of the *nature* and *purpose* of legitimacy and support as political phenomena. At one level, liberal theorists exhibit a degree of confusion regarding the *extent and nature of the audience* whom their accounts address, and to whom they apply—which reduces the desirability of filtering legitimacy and support through a liberal 'lens' (I.B.1). I suggest that two common features of the liberal accounts which reinforce this effect are (1) a treatment of the *concept of legitimacy* itself as a *static attribute*, rather than a *dynamic process* (I.B.2); and (2) a blurring of the distinction between legitimacy and 'political obligation', or more broadly, political support (I.B.3). Overall, I argue that the liberal approach to legitimacy and support is unsuited to the actual *praxis of politics*—and that this implies the need for a wholesale departure from liberal methodology (I.B.4).

1. *Liberalism and ecumenical appeal*

The historical development of liberalism has seen the valence given to its core values—including those that underpin liberal legitimacy theories—'descend' from *absolute*, or *transcendent*, status via *objectivity* and perceptibility by *rational* cognition, to more modest aims of *universality* or *reasonability*. With this seeming decline in liberal ambitions for the *scope of application* of their accounts of the 'real', it has become increasingly unclear who the intended *audience* of liberal theorising is—i.e., who is supposed to find liberal thought *appealing*, and over whom liberalism claims *ideational jurisdiction*. There are two prominent ways endorsed by liberal authors of reading current liberal philosophical thought in this regard, which I call the *restrictive* and *expansive* interpretations. The *restrictive* interpretation holds that liberal theorising of *any* political phenomena is only aimed at those agents who share, or are sympathetic to, a liberal *Vorurteil*, or "prejudice", in their core assumptions[52]. This reading implies that participation in liberal political debate is something of an exclusive club: agents have to see the world in a very specific light, and feel a certain way about it, for liberal principles to even be relevant to them. They must be part of a

[52] Based on a verbal suggestion by Daniel McDermott; cf. possible indications of this trend: Galston, *Liberal Purposes*, p.117; Rawls, *Political Liberalism*, p.5ff; Charles Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996), p.121ff; Hans-Georg Gadamer, *Truth and Method*, Joel Weinsheimer and Donald G. Marshall (ed.) (London: Continuum, 2004), pp.267-84.

specific ideational 'community' of agents who share a substantive pre-discursive consensus on the "fore-structure" of 'the good', 'the right', and 'the virtuous'[53]. Put differently, the restrictive interpretation of liberalism suggests that liberal principles are not built, or intended, to deal with agents who cannot on some level agree with them: liberalism will only appeal, or apply, to people *who are already predisposed towards it anyway*.

The *expansive* interpretation, however, exhibits an equally prominent opposite tendency, suggesting that liberal theories are aimed at *all* agents, regardless of what core assumptions or values they subscribe to[54]. This reading, by contrast, implies that liberalism is, in some sense, *prior* to political debate, and can, if called upon to do so, encompass all aspects of the 'real' into a distinctive, workable interpretation that can pre-empt, or predict, the ideational 'conclusions' agents reach. Liberal principles of 'the good', 'the right', and 'the virtuous' are consistently and universally relevant to *all* agents, because (on some level, and in some respects) agents are sufficiently biologically and psychologically similar that they *all* see the world in a very specific light, and feel a certain way about it. Liberal principles thus refer to essentialist ascriptions, whose meanings are intended to obtain non-contingently at a *factual* level of reality *beyond* agential perspective. Thus, if agents disagree, the same biological and psychological assertions offer suitably neutral discriminating criteria to determine that there is a 'plausible reason' why they *ought* to accept the liberal views, and why more complex ethical and political frameworks can be developed from them. In other words, the expansive interpretation of liberalism suggests that liberal "values, principles, and standards" *specifically are* "formulated and arranged", or intended, to deal with *all* agents, even those who disagree with them. Liberalism can appeal, or apply, to everyone, because everyone *could*—and, of right, *ought* to—interpret the 'real' in a cognitively 'liberal' way[55].

Neither interpretation is a uniquely 'correct' picture of liberalism—which interpretation an author chooses is significant for determining *what kind of liberal they*

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53 Gadamer, pp.267-72.

54 Freeden, *Liberal Languages*, pp.33, 36; Michael Freeden, 'Failures of Political Thinking', *Political Studies* 57:1 (2009), p.150; Rawls, *Political Liberalism*, pp.xxvi, 72-8; John Rawls, 'The Idea of Public Reason Revisited', in Rawls, *The Law of Peoples* (Cambridge: Cambridge University Press, 1999), p.179; Stephen Macedo, 'Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?', *Ethics* 105 (1995), pp.468-96; Mark Evans, 'Is public justification central to liberalism?', *Journal of Political Ideologies* 4:1 (1999), pp.117-36; Thomas P. Neill, *The Rise and Decline of Liberalism* (Milwaukee, WI: The Bruce Publishing Company, 1953), p.21; Ronald Dworkin, 'Liberalism', in Dworkin, *A Matter of Principle* (Oxford: Oxford University Press, 1985), pp.181-204; Jean Hampton, 'Should Political Philosophy by Done without Metaphysics?', *Ethics* 99 (1989), pp.791-814; Joseph Raz, 'Facing Diversity: The Case of Epistemic Abstinence', *Philosophy and Public Affairs* 19:1 (1990), pp.3-46.

55 Rawls, *Political Liberalism*, p.45.

are—though each captures a certain inconvenient truth about 'high' liberal ideology. *Restrictive* liberalism exhibits serious 'false modesty' regarding its tradition's utopian-idealist aims: liberalism has never just been about acting as a 'talking shop' for like-minded thinkers, but has rather sought aggressively to 'reform' the 'real' in a liberal image, challenging disagreement at every stage—which bears out Freeden's lamentation that the modern vogue of introspection has lost sight of liberalism's historically radical substance and motivation[56]. Meanwhile, *expansive* liberalism provides the telling insight that *bona fide* universalist ethical assertions require, in part, a *denial of limitations* to the ability of agential cognition to make valid statements about the 'real'—a degree of epistemic arrogance that underlines the empty volatility of the crude, ahistorical colonisation of the 'real' by purportedly 'neutral' principles of political liberalism[57].

This tension between liberalism's restrictive and expansive tendencies has a detrimental effect on the *plausibility* of liberal 'political obligation' theories—and thus on their *appeal* to agents outside the liberal fold. *Restrictive* liberal arguments for legitimacy and obligation slide towards *circularity*, as they vaguely pick up on the *existence* of appreciation for democracy, fairness, justice, consent, &c, within the 'real', and then pander to the favourable view of these justifications *which those who appreciate them have already* in 'arguing for' obligations, rather than attempting to establish the justifications' merits intersubjectively. Meanwhile, *expansive* liberal arguments are in danger of *inaccurately representing* the 'real', as they assert either that the valence of the above justifications is such all agents *do* appreciate them (without sociological substantiation), or that they *should* appreciate them (without arguing for their agent-independent appeal). Both interpretations run into similar variants of a common *problem of 'ecumenical appeal'*: *what do liberal arguments do when confronted with the need to legitimate authority to, and generate support for it among, agents who do not 'fit the bill'?* Restrictive liberalism cannot deal with the fact that social groups unified by some exigency are rarely, if ever, composed exclusively of like-minded agents who all share a pre-discursive consensus on, or sympathy for, a given set of values. At the same time, expansive liberalism has no way of 'speaking to' other-minded agents to whom authority arrangements need to be legitimated, but who will not 'buy' any of the five liberal conceptions, even in hybridised form.

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[56] Freeden, *Liberal Languages*, p.35; Leonard T. Hobhouse, *Liberalism* (London: Oxford University Press, 1911), pp.21-49, 110; John A. Hobson, *The Crisis of Liberalism: New Issues of Democracy* (London: P.S. King & Son, 1909), p.91-5; Harold Laski, *The Rise of European Liberalism* (London: G Allen & Unwin, 1936), pp.158-9.

[57] Freeden, *Liberal Languages*, pp.29-30.

Liberalism, in other words, cannot decide how to answer the overarching question of what liberals can/should do with non-liberals—or, more broadly, *what agents with one perspective can/should do with those who disagree with them*. The restrictive interpretation effectively pretends that dissenters are of *insufficient social or political importance to need accounting-for* in theories of legitimacy and support; and the expansive interpretation can only argue that dissenters are *wrong* by some measure, and *can—indeed, must—be coerced* into aligning themselves with arguments that are *a fortiori* correct by liberal lights[58]. Neither variant seems remotely productive or desirable, as both effectively *bypass* honestly confronting the complex, stochastic *Geworfenheit*[59] of value-conflicts in the 'real'—and I consider deficient any ideology whose approaches to 'real' problems are restricted to either *denying their relevance* or *bootstrapping a resolution through coercion*.

2. *Static and dynamic legitimacy conceptions*

My second criticism of the liberal 'political obligation' tradition offers an initial response to the problem of 'ecumenical appeal', which addresses the prevailing views regarding *what kind of political phenomenon* the concept of legitimacy *itself* is. Liberal theories use an conception of legitimacy that is much too *static* for application to the political 'real'. Legitimacy, under liberal lights, is conferred or entailed by the possession of *essentialist substantive attributes*—consent, democracy, justice, respect for rights, &c. In part, of course, the specific details of this conception spring from the adoption by 'political obligation' theory of the *ethical* preferences of 'high' liberalism—but there is also a further, deeper misunderstanding of the concept of legitimacy at work here. By relying on essentialism, on *legitimacy-as-'is'*, liberalism adopts an approach to theorising legitimacy that *cannot avoid* descending into the political discourse of "stipulation-cum-manipulation" and *imposition*[60]. Bluntly, liberal accounts treat legitimacy as an *adjective*, an answer to a *qualis*-type, 'what kind' question. This approach is inherently decontestatory. Semantically, specifying what a phenomenon 'is' or 'is like' implicitly rules out its being (like) anything that is essentially incompatible with the characteristic one ascribes to it—thereby, in effect, smuggling in *definitional* criteria of 'rightness' and 'wrongness'. This is where a peculiar form of liberal elitism starts to bite. First, participation in arguments over these essences is

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58 Freeden, 'Failures of Political Thinking', p.150.

59 *Geworfenheit*, 'thrown-ness', refers to the unchosen, almost haphazard subjective and intersubjective characteristics of agents' coming-into-existence in the 'real', with which agents can affect, but cannot *a priori* avoid dealing with. cf. Michael Inwood, *A Heidegger Dictionary* (Malden, MA: Blackwell, 1999).

60 Freeden, 'Failures of Political Thinking', p.150.

restricted to a narrow tranche of political theorists, so the adjectival definition on which they eventually settle will barely benefit from exposure to the perspectives and lived experience of their audience, and may thus deviate significantly from the 'real'. Second, theorists' control over the definitional criteria of legitimacy is liable to abuse through normative enforcement: by virtue of their elevated status, theorists risk blurring 'being right' with 'agreeing with them', leading to the moral ostracism of those who do not share the theorists' view. Ultimately, the danger of legitimacy-as-'is' accounts lies in their *steady valorisation* of definitional criteria into normative criteria—what legitimacy *is* to what legitimacy *is permitted to be*—which risks a reversion to the somewhat inept treatment of disagreement I discussed in I.B.1.

The conception I advocate instead is a *procedural* account of legitimacy that treats it as a *dynamic* phenomenon. At root, this conceptual shift is designed to oppose the fixity of the liberal 'is'-type classification: this alternative conception aims to evade the porous boundary between semantic and valorised specifications of 'correct' and 'incorrect' legitimacy-attributes. It highlights the sheer unrealism of attempts to synthetically decontest particular legitimacy-attributes to a transcendent plane of finality: dynamic 'legitimateness' simply *is not* a closed-off phenomenon of *legitimacy* with only binary options of 'presence' or 'absence'. Rather, it is a fluid, (potentially) perpetually ongoing activity of *legitimation* with qualifiable degrees of satisfaction, and only temporary, contingent nodes of *apparent* resolution, decontestation, or 'closure'. Moreover, the dynamic conception places much-needed emphasis on the multiple agents involved in 'legitimating relationships' with one another: the *audience* (the agents *to whom* something is legitimated), the *object* (*what* is being legitimated, see III.1 and IV.4), and the *legitimator* (the *legitimating agent*, i.e., theorists, structure, &c)—a nuance which the static conception glosses over. That legitimacy actually concerns a way of *reconciling a complex collection of different wielders of political agency* is brought home best by the original etymological derivation of the word 'legitimate' from the past participle *legitimatus* of the medieval Latin verb *legitimare*, 'to make lawful'[61]. The status of 'legitimacy', or 'legitimateness', is crucially "conferred or ratified" by a legitimation-process's *having-been-performed*. By replacing *legitimacy-as-'is'* with a semantically more consistent *legitimacy-as-'has-been-done'*, the dynamic conception shifts from a *qualis*-type, 'what kind' question to a *quomodo*-type, 'how' question. This captures the necessity of relational engagement between agents as a precondition for 'legitimateness', and offers an alternative to the strict liberal association of legitimacy

[61] Entry for 'legitimate, *adj*. and *n*.', *Oxford English Dictionary* (Oxford: Oxford University Press, 2012).

with *ethical concerns* of 'right/wrong' and 'good/bad'. Treating legitimacy as a *process*, and leaving ethical substance to the *stochastic determination of particular contexts*, offers the first glimpse of a way around the problems with the liberal accounts. Legitimacy is concerned with the *creation* and *exchange* of ideas, as much as with their final *substantivisation*—and without a dynamic conception of legitimacy, political theory cannot adequately address either.

3. *The distinction between legitimacy and support*

A further conceptual clarification which liberal theories fail to make is the analytic separation between legitimacy and 'political obligation'. From the liberal perspective, the route from legitimacy to obligation is straightforwardly one of direct entailment: *agents have obligations to legitimate structures because they are legitimate*. This imbues legitimacy with much more weight—through protracted political repercussions—than its meaning of 'justifiedness' or 'explainedness' warrants. Calling a structure 'legitimate' in the liberal sense creates *binding relationships of right and duty* between coercer and coerced, well beyond the more modest claim that legitimation only serves to *make coercive power non-arbitrary*. I hold the liberal preponderance for *static* legitimacy-as-'is' accounts responsible for this escalation of significance, since these bootstrap agential obligation through both their *substance* and *semantics*. Given the liberal focus on forms of legitimacy-as-'is' whereby structures promote 'the good', 'the right', and 'the virtuous' by liberal lights, it becomes tempting to argue that agents *owe legitimate structures 'something in return'* for their doing so, and convenient to frame *what is owed* in the liberal language of structures' rights against agents, or agents' correlative duties to structures. More generally, however, the essentialist undercurrent in liberal 'political obligation' theory makes 'obligation' part of the *definitional meaning* of 'legitimacy': as suggested above, legitimacy-as-'is' accounts are vulnerable to having valorised prescriptions smuggled in under the guise of definitional criteria. With a *dynamic* legitimacy account, however, such a semantic slide is harder to perform, as there is no universal, substantive ethical standard of legitimacy for agents' obedience to 'latch onto'. Under dynamic legitimacy, the legitimation process only achieves a situation where the exertion of authority by the legitimated structure does not (as it would without legitimation) immediately lead to agents' violent, hostile resistance to coercion. Any further cashing-out of the agent-structure relationship, specifically the emergence of binding specifications for action

over and above the discrete reasoning that established 'legitimatedness' in the first place, requires more argument than legitimacy *tout court* can provide.

Further, liberalism misunderstands *what it is that agents owe/dedicate to structures with political authority* in terms of *substance* and *terminology*: the relationship between agents and structures is better characterised in terms of *support* than of *obligation*. In part, this is because the particular language of rights and duties used in accounts of 'obligation' is one over which liberalism enjoys something of a conceptual monopoly. Of course, other ideologies and traditions also deal in the same, or related, concepts—but in order to move beyond the 'ethical turn' of liberal discussions of legitimacy, broader consideration must be given to forms of dedication that 'political obligation' cannot cover. 'Support', meanwhile, has broader semantic scope than 'obligation', covering more instinctual, less institutionalised forms of political dedication as well. 'Support' can take many more nuanced forms than the rigid, lasting approbation implied by 'obligation'[62], and carries a much more obvious subtext of personalism and engagement: both are relational (to a degree), but support implies a greater level of *reciprocity* and *agency* in the construction of relationships with coercive structures. Both are traditionally unidirectional—obligation and support are expected of agents, but not, usually, of the structure in return—yet obligation has a synthetic permanence that more transient forms of support lack—it is conceptually easier for agents to stop *supporting* a structure than to lose *obligations* to it associated with their, and its, essential *Dasein*[63]. The political 'real' provides a strong case for the theorisation of such supportive arrangements, and thus for an account of support that accommodates them to a greater extent than is possible within the constraints of liberalism.

4. *The weakness of liberal political praxis*

Much of my argument so far has concentrated on the philosophical weaknesses of liberalism in general, and liberal 'political obligation' theories in particular. The final concern, however, is one that is considered insufficiently in political discourse—namely, the *strategic value* of the liberal accounts I have outlined and criticised. The most damning flaw of the liberal accounts is their remarkably poor approach to the praxis of politics—where it is no longer concerns about 'good' vs 'bad', or 'right' vs

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[62] Michael Freeden, 'Languages of political support: Engaging with the public realm', *Critical Review of International Social and Political Philosophy* 12:2, pp.185ff, 193-96.

[63] *Dasein*, 'being-there, existence', refers to the particular form that a phenomenon's presence within the 'real' takes at a given point—the contingent essential manifestation of the phenomenon's *Sein*, or 'Being'. cf. Inwood.

'wrong', that predominate, but 'success' vs 'failure', and 'winning' vs 'losing'[64]. In part, this is a result of the liberal "use [of] ethics to contain the political"[65], in that politics has been twisted into addressing 'what ought to be' rather than 'what can be', or 'what is'. Liberalism superimposes onto distinctively *political* criteria of success and progress its own *ethical* preferences: justice, democracy, equality, liberty, &c. Liberal 'political obligation' theories thus offer agents limited scope to engage in any dialogue that is *not* premised on the assumption that liberal norms will 'come out on top'. Concerns about salesmanship, proselytisation, presentability, and ideational 'give-and-take' do not register on any liberal radar—since neither restrictive nor expansive liberalism see any value in appealing to non-liberal agents.

Given that not all agents are amenable to liberal arguments, and that excluding dissenters is often not a viable option, the liberal insistence on either *ignoring* or *oppressing* those who disagree seems not just *theoretically dissatisfying*, but also *impolitic*. Similarly, the liberal preference for 'preaching to the converted'—the 'liberal contingent' in society, or a universalist liberal caricature of society as a whole—not only suggests a lazy political attitude, but also misunderstands a central purpose of "legitimatory mechanisms"[66]. Legitimation as a process, and a strategic tool, *relies on* the presence of a difference of opinion between legitimator and audience—since perfect pre-discursive agreement among agents regarding a *legitimandum* would remove the need for any further explanation or justification. Legitimation thus in some sense implies an *expansion of the 'constituency' of agreement*—an outward-looking ethos on the part of the legitimator with respect to the audience that gets to the heart of the question of *ecumenical appeal*. Neither the introspective solipsism of *restrictive* liberalism, nor the 'agree or be damned' ethos of *expansive* liberalism, lend themselves to this 'advertising' aspect of legitimacy and support—not least because liberalism offers no middle way between the extremes of consensus and coercive domination.

I suggest that any solution to the problems I have identified with the 'political obligation' literature will need to look beyond the confines of liberal theory to be plausible, let alone successful. Liberalism, simply, is too confident in its own rightness—its interpretation and valorisation of the 'real'—to be a useful framework for political engagement. It spins itself a Byzantine web of abstraction, seeking to solidify its hegemonic position by removing itself from the arena of contestation, and ferociously condemning those whose conception of political progress departs from

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[64] Honig and Stears, p.189.
[65] Glen Newey, 'How Do We Find Out What He Meant?', *Times Literary Supplement* (1998), p.29.
[66] Raymond Geuss, *Philosophy and Real Politics* (Princeton, NJ: Princeton University Press, 2008), p.35.

the liberal trend. It creates a second-class group of the remaindered other, comprising agents who liberalism has ostracised, and beliefs which it has reviled[67]. This, in my view, is a blueprint for theory of *enforcement*, not *engagement*; of *oppression*, not *legitimation*. A full and honest discussion of legitimacy and support must thus *avoid* devising abstract ideals and seeking to apply them to the 'real', and instead treat *actual* agents rooted in 'real' contexts as the primary vehicles for political theorising. This shift is not meant to indicate any *prima facie* hostility to the ethical level of analysis, but merely recognises the need for a *different kind of account* that considers *more fundamental personal foundations*—in particular, *ontological* analyses of how agents develop their sense of self, and acquire the perspectives they hold. The methodology and assumptions underpinning my conception of legitimacy (see part II), therefore, aim to work towards a *way of accounting practically for agents' facticity within the 'real'*. In particular, they recast the connection between 'the personal' and 'the political'[68]—on the basis that the liberal 'ethical turn' has severely skewed and misconstrued this connection to the detriment of political theory. Only that way will my account of legitimacy and support have the necessary ecumenical appeal—which liberalism lacks—to be a saleable, fungible *political theory*, and not merely an assertive *statement of ideology*—which liberalism has become.

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[67] Galston, *Liberal Purposes*, p169; cf. Richard E. Flathman, *Wilful Liberalism: Voluntarism and Individuality in Political Theory and Practice* (Ithaca, NY: Cornell University Press, 1992).

[68] With *'the political'*, I am referring to the aspects of the 'real' that fall within the purview of political analysis. For a detailed discussion of the analytic content of 'the political', see Michael Freeden, 'What Should the "Political" in Political Theory Explore?', *The Journal of Political Philosophy* 13:2 (2005), and Elizabeth Frazer, 'The Boundaries of Politics', in David Leopold and Marc Stears (eds.), *Political Theory: Methods and Approaches* (Oxford: Oxford University Press, 2008).

II. Personalism: the critical realist approach

> Politics is the art of the possible.——Otto von Bismarck (attributed), remark to Clemens Friedrich Meyer von Waldeck (1867)[69]
>
> Strategy is a system of expedients; it is more than a mere scholarly discipline. It is the translation of knowledge to practical life, the improvement of the original leading thought in accordance with continually changing situations.——Helmuth von Moltke, 'On Strategy' (1871)[70]

With this rejection of liberalism as a foundation for an account of legitimacy and support, it becomes necessary to provide an alternative methodology that frames how the rival accounts I develop in parts III and IV approach the task of theorising the 'real'. I consider the most promising alternative tradition to be *critical realism*, which synthesises insights from a catholic ideational heritage that give it the interpretative tools and the ideological motivation to oppose the hegemony of liberal values, and to question liberal depictions and valorisations of the political 'real'. Critical realism mainly derives from the various branches of critical theory—especially the recent agonist trend, but also parts of Marxist and post-structuralist thought—and the work of thinkers that fall within the disparate category of philosophical realism—including Machiavelli, Nietzsche, Weber, Schmitt, and Williams[71]. I aim to sharpen the critical realist distinction between ethics and politics by constructing an *ontology of political agency* that grounds my explicitly *political* interpretation of the 'real' and leaves familiar ethical concerns entirely and categorically to contingent chance. By doing so, I aim to reach a stage where I can confront factual differences in agential opinion in a *pragmatic* way that is parallel to, but separate from, the ethical level of analysis.

I begin with a brief consideration of the core features of critical realist methodology, specifically its modelling of the conflictual interaction between political agents as a 'game', its treatment of 'the political' as a separate domain of analysis within the 'real', and its unique criteria of political praxis (II.1). I draw out an undercurrent of *personalism* that pervades the critical realist treatment of politics, represented by the principle of *minimal retained agency*, divided into a perspectivist, heuristic account of the *subjectivity* of agents' political ideation (II.2), and a discussion of their *relational* contextualisation within the 'real' (II.3). Finally, I argue that critical realism—unlike either expansive or restrictive liberalism—endorses the sort of direct

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[69] Heinz Amelung, *Bismarck-Worte* (Berlin: Deutsches Verlagshaus Bong & Co., 1918).

[70] Helmuth von Moltke, 'On Strategy', in Daniel J. Hughes and Harry Bell, *Moltke on the Art of War: Selected Writings* (Novato, CA: Presidio Press, 1995), p.124.

[71] William Galston, 'Realism in Political Theory', *European Journal of Political Theory* 9:4 (2010), p.386.

and honest consideration of the fact of radical perspectival pluralism to which my account of legitimacy and support aspires (II.4).

1. *The critical realist political project*

The most attractive feature of critical realism for my legitimacy project is its unambiguous *personalist* recognition of agents as the "ultimate explanatory, epistemological, ontological, and axiological principle[s] of all reality"[72], or political 'units of analysis', and of the stochastic, limited nature of agents' political behaviour. Critical realism develops an *account of political action* based on the concept of the interactive "political game", or *agon*, drawing on Huizinga's *homo ludens* account of political agency, and Gadamer's conception of 'play'[73]. This model treats political engagement as an interactive, attritive, stochastic activity of mutually participating agents, a process of practical instruction by which agents become politically self- and context-aware, and thus liberated and empowered through self-education and self-assertion. The critical realist account of the political 'game' has been influenced by a multitude of overlapping views on 'the political', which attempt to either capture its core conceptual essence, or put forward a set of its eligible purviews[74]. By far the strongest common factor in these accounts has been the *integral nature of conflict* to politics[75]—and perhaps the clearest influence on the critical realist theorisation of 'the political' has been Schmitt's view of politics as concerning the existence of *enmity*. For Schmitt, the presence relative to an agent of another who is "in a specially intense way, existentially something different and alien, so that in the extreme case conflicts with [them] are possible" creates an essentially political relationship between them[76]. Not only is the *existence* of a tangible 'other' thus treated as a social 'fact of life', but the possibility of *opposition* to this 'other' also becomes an ever-present risk that urgently needs theorisation. As a result, politics emerges as a *discipline*, or *distinct class of social action*, simply because interaction between agents—specifically, between 'like' and 'other'—is *inevitable* in practice.

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72 Williams and Bengtsson, Introduction.

73 Johan Huizinga, *Homo Ludens* (London: Temple Smith, 1970), p.105ff; Gadamer, pp.102-10.

74 James Tully, *Public Philosophy in a New Key I: Democracy and Civic Freedom* (Cambridge: Cambridge University Press, 2008), pp.19ff, 136; Bernard Williams, *In the beginning was the deed*, pp.77-8; cf. Hannah Arendt, *The Human Condition*, Margaret Canovan (ed.) (Chicago, IL: University of Chicago Press, 1998).

75 Galston, 'Realism in Political Theory', pp.396-8; Chantal Mouffe, *On the Political* (London: Routledge, 2005), p.9.

76 Carl Schmitt, *The concept of the political* (Chicago, IL: University of Chicago Press, 1996), p.27.

The most prominent recent trend within *prescriptive* critical realism[77], *agonistic realism*, seeks to convert Schmitt's distinction between 'friend' and 'enemy' *in some way* into the more constructive distinction between 'friend' and 'adversary', whereby conflict and otherness are harnessed as the bases for political progress and development[78]. Agonistic realism reinterprets the model of the political 'game' in a way that requires agents to exhibit an attitude of honourable "mutual … respect and recognition" in negotiation, and engage in a way that is dignified, polite, and serious vis-à-vis other agents' perspectives[79]. Agonistic realism *prescribes* a new set of political 'virtues'—openness, admiration, honour, generosity, and civility—as a way of cultivating calm, intelligent debate, and exploring the possible role inter-agential conflict could play in achieving social *progress and development*[80]. In a self-consciously similar vein to liberal forms of ideal theory, agonistic realism aspires to attaining forms of 'the good' or 'the right' such as consensus, trust, a social "common bond", and especially justice in a strongly egalitarian sense[81]—with the aim of letting agents "experienc[e] more authentically … a political life that might otherwise escape [them]"[82]. The idea that politics may help agents achieve civic "personal transformation" is rooted in the acknowledgment that politics has *historically been able to play such a role*, and that agents *factually exhibit* such "exemplary qualities of character"[83]. Politics *has the ability* to "deconstruct[] the binary between artifice and actuality", essentially contesting the 'real' by challenging injustice and exclusion[84]. It is this scepticism, or "doubt", towards the immutability of our *geworfen* 'social condition' that motivates conflict on an agonistic realist reading—and it is this 'will to betterment' that underpins the *progressive potential* of politics, which agonistic realism sees as the *duty* of political theory to highlight and explore[85].

From a hardline realist viewpoint, however, 'progress and development' are not *necessarily* the objects of Schmitt's conflictual enmity. Rather, following the arch-realist Geuss, that position is reserved for the "acquisition, distribution, and use" of

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77 I use Freeden's definition of 'prescriptive realism' as "placing *recommendations* and *justifications* for political action in frameworks more conducive to working from the world as it is". Michael Freeden, 'Editorial: Interpretative realism and prescriptive realism', *Journal of Political Ideologies* 17:1 (2012), p.1.

78 cf. Bonnie Honig, *Emergency politics: paradox, law, democracy* (Princeton, NJ: Princeton University Press, 2009).

79 Honig and Stears, p.198.

80 Ibid., p.203.

81 Mouffe, p.20; Honig and Stears, p.196; James Tully, *Public Philosophy in a New Key II: Imperialism and Civic Freedom* (Cambridge: Cambridge University Press, 2008), pp.97, 238.

82 Honig and Stears, pp.198-9; Tully, *Public Philosophy in a New Key I*, p.239.

83 Honig and Stears, pp.200, 203.

84 Ibid., pp.204-5.

85 The use of 'doubt' stems from Marc Stears, 'Constructing a Democratic Democratic Theory' (working paper, 2012), which offers a realist account of democracy, rooted in "passion, doubt, and relationality".

bare power—or the answering of the quasi-Leninist compound question "*who* [1] <does> *what* [2] to *whom* [3] for *whose benefit* [4]?"[86]. The only sense of 'progress' which such realism might consider an intelligible political aspiration is thus a transient mitigation of the "continual competition for power", and ongoing concerns regarding "powerlessness, fear, [and] cruelty"[87]. Realist theorisation is an attempt to wrest relative peace and stability, through both political order and cognitive *Verstehen*[88], from the "excessive or intolerable" contingent flux of the 'real'[89]. Though I am sympathetic to *agonistic* realism's aim of channelling conflict into finding a 'better' way of engaging politically, and improving the lot of agents in society, I argue that it errs too far on the side of *valorising political relationships and discourse*. Agonistic realism reintroduces a series of ideal standards and aspirations for what political engagement *should* look like, and claims to identify historical aspects of the 'real' that make them universal, and uncontroversial—a slightly odd attitude of 'can implies ought'. It becomes guilty of what Williams calls the "subversion of the wish", theorising the 'real' through the lens of "what [theorists] want to be true", and extrapolating from this that the same ideals are "what [they] believe [their] audiences want to hear"[90]. In other words, agonistic realism repeats the liberal mistake of coming to the political table with fully-fledged, preconceived values and opinions, which it seeks to impose on the 'real' through manipulation of the norms of political discourse. It distorts and weakens the connection with the actual concerns of agents in the 'real', and produces gentrified political principles that lack immediacy to the lived reality and brutal exigencies of raw politics.

The more *interpretative* form of critical realism I advocate instead[91], then, accepts the *limitations of politics* by recognising the deeply discomforting, but acutely 'real', potential volatility of unchecked engagement. Agents are simply not as willing as agonistic realism suggests to convert every disagreement on political principles into an elaborate construct of respectful debate. The occasional *unavoidability* of finding a common 'way around' perspectival differences is the only reason why agents make the effort to *find the requisite common ground to start engaging with each other's views at all*.

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[86] Geuss, p.25.

[87] Honig and Stears, p.192; Williams, *In the beginning was the deed*, pp.59-60.

[88] *Verstehen*, 'understanding', is used here in a deliberately Weberian sense of interpretative, lived, critical-reflective examination of social phenomena. cf. Max Weber, '"Objectivity" in social science and social policy', in Weber, *Max Weber on the methodology of the social sciences*, Edward Shils and Henry A. Finch (eds.) (Glencoe, IL: Free Press, 1949).

[89] Geuss, p.22; Honig and Stears, p.183.

[90] Bernard Williams, *Truth and Truthfulness* (Princeton, NJ: Princeton University Press, 2002), pp.153, 267; Honig and Stears, p.186.

[91] Again, following Freeden: 'interpretative realism' as "giving an empirically related account of the features of the political as a basis to *understanding* politics". Freeden, 'Editorial', p.1.

Conflict is rarely relished as a promising opportunity for self-education or a source of *telic* fulfilment, but instead usually treated as an irritating *hurdle* to progress and decision-making—more a reason to clarify and defend one's reasoning about the 'real' exigencies that make political discourse necessary, than to engage in self-critical reassessment. The critical realist conceptualisation of the 'political game' also cannot afford to dilute the seriousness of what conflict actually means in practice: attritive disagreement and discursive resolution in the political 'real' are not inconsequential, epiphenomenal divertissements. The *homo ludens* model must recognise that agents learn by *trial and error*: winning or losing in real politics is much weightier than temporary success or failure, involving deep fluctuations in power, authority, ideational control, conviction, and capacity for action. 'Getting it right' or 'wrong' (in whatever sense) can have extremely long-lasting, if not permanent, enabling or detrimental effects, and it is rarely self-evident which course of action will have which result—which raises the political stakes higher than agonistic realism suggests.

Further, this conception of critical realism explicitly rejects the ability of ethical or political discourse to ever *fully resolve* agential power-conflict, and is deeply suspicious of underlying mechanisms of *Machtpolitik* at work in projects that claim to do so[92]. It echoes Geuss' crusade against ideological illusion, and Williams' endorsement of "some version of critical theory", with a caveat that much of what is taken as political 'fact' partly results from the workings of power, and is thus a candidate for analytical 'exposure', rather than a sure foundation for higher-level theorisation[93]. This ingrained scepticism or ironism in the *critical* aspect of critical realism *goes beyond* the ameliorative 'doubt' of agonistic realism, denying the possibility of specifying *any* pre-formed 'way of doing politics'—even in as 'thin' a form as 'adversarial conflict'—that helps mitigate exigencies and soften 'like-other' hostility in all cases[94]. Case-by-case heuristics becomes the only appropriate way of addressing political concerns—which implies that 'the political' must be treated *predominantly* as a locus of real action, *not* as a testing-ground for pre-formed ethical theories. The whole *point* of portraying discursive political engagement as a 'game' is to find terms of resolution best suited to the given conflict under consideration. Any such terms are necessarily *fluid* and

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[92] I consciously use the phrase *Machtpolitik* instead of the translation 'power politics' to capture the implications of self-interested resource-competition, military aggression, and economic conflict associated with the original use of this term in an International Relations context. cf. Martin Wight, *Power Politics* (London: Royal Institute of International Affairs, 1946).

[93] Elizabeth Frazer, 'What's real in political philosophy?', *Contemporary Political Theory* 9:4 (2010), p.495; Geuss, p.53.

[94] Richard Rorty, *Contingency, Irony, and Solidarity* (Cambridge: Cambridge University Press, 1989), p.73.

contingent—and any approach that advocates their construction in abstract isolation, and unmediated transferral and application to the 'real', is incorrigibly flawed.

The purpose of the critical realist treatment of 'the political' as a *discrete, irreducible locus of analysis, rather than a branch of applied ethics or social science*, thus becomes the bridging of the gap between 'real' action and the imperfect understanding agents have of it. Critical realism holds that incremental 'closure'—as opposed to 'progress'—is determined, *not* by "dispassionate reason-giving or through the development of a broad and stable consensus", but rather by the uniquely political binary between *success* through "winning a battle, or series of battles, ... or simply by outliving [one's] opponents", and *failure* through defeat in the same locus of engagement[95]. This suggests that a critical realist political theory must focus explicitly on precisely those concerns of political praxis which I found lacking in contemporary liberalism: *management*, *saleability*, *communication*, and above all *tactics* and *strategy*. Theory must be informed not only by the *chronos* of *norms*—a historicist, sequential genealogy of origins—but also the *kairos* for *prescription*—an understanding of the appropriate time for "action and intervention"[96]. The critical realist concern for order and stability thus prompts a concern for considerations like *expediency*, *efficacy*, *durability*, *conclusiveness*, *credibility*, and *decisiveness*, which are unique to the domain of political praxis—and which call for a very different set of agential concerns than the liberal focus on ethics. Perhaps the clearest is a sense of *assertiveness*—a drive to stake out a political space for oneself within the conflictual game-as-*Machtkampf*[97], given the *Geworfenheit* of the conditions of one's *Dasein* in the 'real'[98]—which derives conceptually as much from the Hobbesian "perpetual and restless desire of power after power" as the Nietzschean 'will to power'[99]. In other words, the concern of critical realist praxis is that of *getting things done, given the way things are*—with a Machiavellian sense of one's *prowess* at manifesting this assertiveness by imposing one's will despite contingent, "changeable" *fortuna* as the consummate *virtù*[100].

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95 Bernard Williams, *Philosophy as a Humanistic Discipline* (Princeton, NJ: Princeton University Press, 2006), pp.190-94; Honig and Stears, pp.188-9; cf. Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago, IL: University of Chicago Press, 1962).

96 Geuss, pp.31-2; Frazer, 'What's real in political philosophy?', pp.494, 499.

97 *Machtkampf*, 'power-struggle', is used here with the same overtones as *Machtpolitik* (see n.65).

98 Martin Heidegger, *Being and Time*, John Macquarrie and Edward S. Robinson (eds.) (Oxford: Basil Blackwell, 1962), §§1-8, 28-32, 34-8, 65-75.

99 Thomas Hobbes, *Leviathan*, Richard Tuck (ed.) (Cambridge: Cambridge University Press, 1991 [1651]), §XI.2; Friedrich Nietzsche, *Beyond Good and Evil*, Marion Faber (ed.) (Oxford: Oxford University Press, 2008), §§22-23, 36, 44, 51, 186, 198, 211, 227, 257, 259.

100 *Fortuna*, 'luck', is the term Machiavelli uses to refer to the *Geworfenheit* of 'real' conditions; *virtù*, 'virtue', is his classic formulation of the skill at governance a successful 'prince' must be able to exhibit. cf. Niccolò Machiavelli, *The Prince*, George Bull (ed.) (London: Penguin, 2004), §§6-7, 25.

These combined insights give the critical realist political project uniquely radical counter-hegemonic potential. In particular, its conceptualisation of politics can account for the primacy of the agent without conflating this with ideal-theory expansion from personal ethics to 'the political'—accepting 'the personal is political' without accepting 'statecraft is soulcraft'. Critical realism has a highly successful record of identifying and interpreting aspects of the 'real' that other methodologies largely ignore: the critical side brings a pronounced focus on elite-remainder relationships, the politics of exclusion, and the subaltern, while the realist aspect provides a rigorous account of *Machtpolitik*, relations of domination and oppression, and societal structuration and entrenchment[101]. Critical realism thus becomes a useful tool for *uncovering* ways of thinking and acting—disclosing *hidden dimensions of human political experience*—without also standing in judgment over them. It treats politics as the 'art of the possible' *par excellence*, and through its analysis dissolves contingent restrictions within the 'real' that stop potentialities from being perceived, evaluated, and realised. This makes critical realism particularly conducive to a new treatment of legitimacy and political support: it recognises the stochastic facticity of conditions in the 'real'[102], and treats them as *sources of agential insight on which politics depends*, rather than as *morally sensitive phenomena to be explicitly either endorsed or opposed*. My task in the rest of this part is thus to tease out a critical realist *ontology of political agency* on which to establish my account of legitimacy and support—i.e., to provide a concrete set of foundations for the *reclamation of personalism* from 'the ethical' for 'the political'. Given my interest in *legitimacy*, and agents' different views of right/wrong and good/bad, assessing how critical realism deals with ethics will always form a *significant part* of my analysis—but it is one of critical realism's most appealing aspects that it treats ethics as *only one of several criteria on the same level of analysis* in agents' political reasoning.

2. *Subjectivity: reclaiming 'the personal' for 'the political'*

I separate out 'the personal' from 'the ethical' in politics by recasting critical realism in a way that looks for guidance not to *what agents have to say* about the state of the political 'real', but instead to the *fact that they have something to say at all*. By

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[101] cf. Giorgio Agamben, *Homo sacer: sovereign power and bare life* (Stanford, CA: Stanford University Press, 1998); Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?', in C. Nelson and L. Grossman (eds.), *Marxism and the Interpretation of Culture* (Basingstoke: Macmillan, 1988).

[102] 'Facticity' is best characterised as *Dasein* under the conditions of *Geworfenheit*—i.e., factual existence shaped by unchosen contextual details, which render it incompletely explicable, and frame and constrain the possibilities for *happening* and *action*. cf. Quentin Meillassoux, *After Finitude: An Essay on the Necessity of Contingency*, Ray Brassier (tr.) (London: Continuum, 2008).

reinterpreting the origin of individual morality as *internal* to agents (hence 'personal'), I argue that critical realist politics can deal with individual moralities in practice from a position *external* to agents' ethics. The criterion of *relational subjectivity*, which I develop below, thus characterises how political agents come to hold views on 'the good' and 'the right', and frames the claims which critical realism makes about the 'real'. The core of the drive for personalism is the argument that agents' ideations of belief, truth, knowledge, judgment, and value are essentially constituted by agents' own imagination, intention, and interpretation—in other words, by agents' *subjective perspective*[103]. It is a central tenet of critical realism that political agents cannot abstract away from their 'real', vernacular, subjective biases to achieve even approximately the transcendental or ideologically neutral position of a "pure, will-less, painless, timeless knowing subject"[104]. Treating perception and evaluation as *perspectival* is key to understanding the rootedness of *any* account of moral or political phenomena in agents' *experience* of their social reality, including its limitations—*prejudicial* framing, *failures of perception* or *comprehension*, *under-determination* of their reality, and responsiveness to external *manipulation*.

Further, critical realism holds that no beliefs or values can be placed wholly beyond disagreement and contestation, due to the fundamentally acquisitive and dynamic nature of ideation[105]. In other words, not only are conceptions of knowledge, truth, &c, *reducible to interpretation*, but this interpretation is itself subject to constant *evolution* and *revision*. Agents do not experience reality with their perspectives fully-formed, and their every experience contributes to the subjective *Weltanschauung* that informs their interpretations of subsequent experiences. The development of agents' ideational and interpretative capacities is a process of ongoing discovery, which cannot ever be said to reach an 'end-point', or indeed to be aiming to do so. This *hermeneutic-heuristic perpetuum mobile* implies that the central concern of political theory as a bridge between the 'real' and agents' perspective is not the stipulation of fixed values and concepts, but analysis of the factors that lead to changes in *how agents perceive and use them*. It is also this Gadamerian form of *ideational* 'play'—connected to the *homo ludens* concept—that underpins the critical realist view of politics as a 'game'.

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[103] Galston, 'Realism in Political Theory', p.396.

[104] Friedrich Nietzsche, 'Third Essay', in Nietzsche, *On the Genealogy of Morals*, Douglas Smith (ed.) (Oxford: Oxford University Press, 2008), §12; cf. Williams, *In the beginning was the deed*, pp.115-27, 148; Galston, 'Realism in Political Theory', p.394; Mark Philp, *Political Conduct* (Cambridge, MA: Harvard University Press, 2007), p.235; Richard Bellamy, 'Interview', in Morten Ebbe Juul Nielsen (ed.), *Political Questions: 5 Questions on Political Philosophy* (London: Automatic Press, 2007), pp.24-5.

[105] W.B. Gallie, 'Essentially Contested Concepts', *Proceedings of the Aristotelian Society* 56:1 (1955-6), pp.167-98; David Collier, Fernando Daniel Hidalgo, and Andra Olivia Maciuceanu, 'Essentially Contested Concepts: Debates and Applications', *Journal of Political Ideologies* 11:3 (2006), pp.211-46.

Critical realism emphasises the importance of accounting for *non-rational political motivations*, particularly the non-rational *foundations of moral and political reasoning*. It argues that agents exhibit a "more complex moral and political psychology" than liberal analysis permits[106]—specifically, that the liberal focus on rationality ignores "an entire dimension of the human psyche", namely the *emotional and aesthetic concerns* that motivate and accompany political action[107]. These are not the product of reasoned thought, but are nonetheless irreducible to the superficial, under-defined category of 'interests', or the sanitised, scientised concept of 'preferences'. Such sentiments are rawer and more instinctual than reflective rationality, and run much deeper and closer to agents' core characters. Pessimistic *modus vivendi* realists, such as Geuss or Williams, tend to focus on (typically) '*negative*' passions and tastes, such as "anger, hatred, the urge to dominate, the desire to destroy"[108], but, following Stears and Freeden, I also stress the importance of '*positive*' equivalents, including *hope*, *sympathy*, *benevolence*, *love*, *optimism*, or *satisfaction*, to the emergence of conditions where agents feel inclined to engage in political action beyond mere aggressive *Machtpolitik*[109]. In this light, critical realism sees the dependence of liberal moral epistemology purely on the heuristic and explicatory power of *reason* as deceptive and misplaced—agents cannot necessarily provide an internally coherent, cogent rational explanation for every view or value they hold. Moreover, the focus on reason ignores the non-rationality of the foundational observations which reason 'converts' into rational argument: the vague 'moral perceptions' or 'intuitions' on which liberal reasoning relies stretch metaphysical credibility into fanciful unrealism, and quickly reduce to emotional or aesthetic instinct in a Nietzschean sense[110].

Critical realism rejects the liberal restrictions on the 'correct' uses of agential cognition—i.e., the colonisation of *reasoning* by *rationality*, and of *thinking* by *intellect*[111]. The liberal attempt to 'close down' the forms of reason that are 'permissible' in ethical and political discussion obscures the subjectivity of *all* judgmental criteria, including those about *how to think*, and casts a dubious negative valorisation on all those forms of reflection which it tars as 'irrational'. Particularly pressing here is the question of whether a certain base level of *intelligence*—a combination of education/learning,

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106 Galston, 'Realism in Political Theory', p.408.
107 Mouffe, p.24; Galston, 'Realism in Political Theory', p.398.
108 Ibid., p.398; Williams, *In the beginning was the deed*, pp.2-3.
109 cf. Freeden, 'What Should the "Political" in Political Theory Explore?', pp.116, 119, 130; Freeden, 'Failures of Political Thinking', p.160; Freeden, 'Languages of political support', pp.188, 193-95, 198-9; Stears, 'Constructing a Democratic Democratic Theory'.
110 cf. Daniel Came, 'Nietzsche on Ethics and Aesthetics', in Came (ed.), *Nietzsche on Art and Life* (Oxford: Oxford University Press, 2011).
111 Galston, 'Realism in Political Theory', p.399.

informedness, self- and other-awareness, and understanding—is required for agents to reach a level of epistemic sophistication at which their beliefs deserve consideration, and thus take on political significance. Any such constraint clashes with the critical realist aim to expand the set of political motivations beyond the narrow range of liberal 'ways of thinking'. Just as no action in the 'real' is ideally realised, no real agential thinking satisfies the aspirations of flawless, pristine perfection held up as laudable ideals. 'Intelligence' and 'stupidity', then, become mere relative terms associated with 'knowledge' imbalances, which—following Foucault—are more an indication of result of latent systemic power disparities than of apparent divergences in cognitive ability, and which—following Freeden—are open to the same subjective contestation as any other beliefs about the 'real'[112]. To pass judgment on agents' *political* worth on the basis of the supposed quality of their reasoning thus risks falling short of the *critical* side of critical realism, by taking as *relevant fact* phenomena that result from underlying *Machtpolitik* in the social sphere. Instead, critical realism advocates treating *all* forms of agential thinking—whatever their superficial quality—as equally part of the 'real', and, by extension, entirely valid objects of political theorisation.

3. *Relationality: context and contingency*

The second part of my elucidation of political personalism refines the critical realist ontology of agency to avoid agents' *mode of engagement* and *participatory performance* becoming excessively *individualistic*. By focusing on the subjective pre-rational tastes and desires that constitute agents' experience of the 'real', and bypassing the need for a shared meta-political conceptual-linguistic framework, critical realism risks wholly omitting any form of other-regardingness from political agency. This is mitigated by the implication from the hermeneutic-heuristic aspect of agents' ideation that moral and political reasoning is fundamentally *relational* in two ways: (1) agents' contexts are intersubjectively created; (2) agents' ideations have an intersubjective basis. First, the 'real' into which agents are *geworfen*, and which they interpret subjectively, is itself the result of *prior* agential action—which creates a link between *agent-* and *context-contingency*. One type of context is the *geospatial* or *local*: actions have effects which (however indirectly) impact on a certain spatial area of proximity and immediacy in a virtual or geographical sense—creating a possibility for

[112] cf. Michel Foucault, 'Two Lectures', in Foucault, *Power/Knowledge: selected interviews and other writings, 1972-77*, Colin Gordon (ed.) (New York: Pantheon, 1980), pp.78-108; Freeden, 'Failures of Political Thinking', pp.147-50.

agential perception and reaction, and thereby affecting the circumstances of agential behaviour. An extension of this is the *intertemporal* or *historical* context: the actualisation of decisive action rules out certain 'chains' of possible events by turning them into counterfactual hypotheticals, so any 'real' actions 'bind' or constrain what agents can do later—essentially, agential behaviour 'filters through' to create a 'background' for subsequent action[113]. Thirdly, bridging both these forms is the *cultural* or *habitual* context: the effect of proximity and precedence on the circumstances of which agents are most aware facilitates the development of common patterns among the behaviours of agents who interact frequently. Agents are thus also presented with a layer of social construction—superstructures, relationships of interest, engagement, and domination—on top of the 'real' *simpliciter*, a modification of the 'real' unique to the history, locality, and agent-constitution of their environs.

Second, agents also depend on these context-forms in a different way, regarding the formation of predominant *norms governing ideation* among the agents they interact with. Just as the 'real' is shaped by agents' actions, interactions, and responses, agents' perspectives and ways of thinking about it are likewise affected by the interpretations prevalent in their context through agents' heuristic acquisition and development of much of their cognitive faculty. This heuristic process is, of course, partly a matter of agents learning from their experiences of the 'real', but any thinking and ideation beyond the most basic, instinctive, and arbitrary forms will be influenced by their local, historical, and habitual contexts. However, each agent's perspective and heuristic process of discovering their 'real' and interpreted contexts are ultimately and importantly their own: contexts *frame* agents' actions and ideations, but they do not *replace their agency*. Agents experience contexts as *points of reference*, as physical and ideational rooting loci *in relation to which* agents position themselves, but this does not mean that *all* agential cognition is reducible to the contexts in which it happens to be situated. This balance of context and individuality, picked up by critical realism's 'systemist' methodological turn[114], is missing from liberal 'psychological atomism'[115]: liberal agents come to deliberative 'ideal speech situations' with the bulk of their ethical-political reasoning pre-conceived in isolation from the 'real'. Instead of recognising the 'work-in-progress' nature of individual views, gestured towards to some extent by Habermasian *communicative rationality*, liberal views of the ideational

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[113] cf. Frazer, 'What's real in political philosophy?', pp.493, 499, 503; cf. Honig and Stears, pp.185-7, 190-2, 200-01.

[114] Mario Bunge, 'Ten Modes of Individualism—None of Which Works—And Their Alternatives', *Philosophy of the Social Sciences* 30:3 (2000), pp.384-406.

[115] cf. Nietzsche, *Beyond Good and Evil*, §12.

sparring that results in a Rawlsian "overlapping consensus" remains one of a competition between ready-formed "comprehensive doctrines"[116]. A more nuanced, contextualist view instead recognises that ideational sets become 'comprehensive' by exposure to alternatives in an *agon* of political sociality rooted within the 'real', not mere abstract reasoning—and retains a clear sense of the importance of agent-context relations to their emergence, substantivisation, and explication.

4. *Minimal retained agency: the critical realist treatment of agents*

The critical realist recognition of the important balance between individuality and contextualised contingency characterises 'the personal' as governed by an ontology of *relational subjectivity*. Specifically, the agent-context relationship is one of stochastic mutual shaping: agents' actions are framed by their context, but they simultaneously affect the context for their own and others' *subsequent* actions. This fundamental core of unique, authentic behavioural autonomy, which I term '*minimal retained agency*', prevents agents' social-relational situatedness from reducing to complete social passivity. *Every* agent is socially significant to the extent that their actions—or, stronger, their *Dasein*—impinge upon a given context. Agents stand in a relationship of reciprocal ideational reliance, since *Verstehen* relies on "agreement" through a Gadamerian "fusion of horizons", *qua* 'alignment' of agents' cognitive frameworks, and ongoing quasi-exchange with *all other agents* is similarly integrated into any context[117]. Agents' belief-sets frame and inform each other to such a degree that they *need* other beliefs, however 'stupid' or 'heretical', to be present for their own heuristic acquisition and development to take place—echoing Feyerabend, the more "anything goes", the more 'anything' may 'come of' it[118]. The implication is that attempts to suppress or ignore other agents' views threaten to impoverish one's own beliefs, as one's heuristic process is starved of its reference-points and the 'oxygen' of ideational exchange. Under this interpretation, accommodating relational subjectivity becomes a useful way of staving off severe ideational atrophy and *anomie*, rootlessness through contextual stagnation, and unproductive repetition of hackneyed ideas. With this insight, critical realism 'uncovers' the hollowness of moves towards decontestation within ideologies like liberalism: claims to have reached a 'final' point of subjective 'bestness' or superiority relative to other contextually-present views inevitably fall

[116] Rawls, *Political Liberalism*, pp.48-53, 133ff; Jürgen Habermas, *On the Pragmatics of Communication* (Cambridge, MA: MIT Press, 1998), ch.7.
[117] Gadamer, pp.301-5, 337, 390, 578.
[118] Paul Feyerabend, *Against Method* (London: Verso, 1975), p.19.

foul of developments in the 'real'. It finds the position that belief-sets could not be 'improved' by further exposure to rival viewpoints myopic, since such a view prefers a path of ideational *stagnation* to the possibility that *permissiveness* towards ideational development could undermine the contingent stability of these beliefs.

The *political significance* of this account of agents' ontology—i.e., why it is important to take what (other) agents think into consideration—looks ahead to its application to legitimacy and support. Simply put: *Agents convinced of the acontextual superiority of their own views are not interested in legitimating them to others to gain their support, only in their enforcement.* In other words: *It does not make sense to write about legitimacy and support without some consideration for relational engagement between agents and their beliefs.* The crux here is that ignoring, discounting, or denying the role of subjectivity in ideational discourse is fundamentally anti-political: publicity, relationality, and interaction are integral to what politics *is*, and legitimacy and support, as political concerns, cannot be 'worked out' in isolation[119]. Thus, the problem with *expansive* liberals, who refuse to accept the contingent limitations of their ideations, or seek to subvert this contingency into universalistic permanence, is that *their* views stand in a relationship of mutual effective irrelevance with *other agents'*. By attempting to 'go it alone' ideationally—working against their ideals' heuristic historicity—they lose the dynamism and de-/reconstructive fluidity of the political 'real', and with it *political salience*. Moreover, their failure to even *take into account* other agents' views implies a *motivation of ethical imposition* that jars with the relationality of political engagement, and precludes even the question of legitimation[120]. For agents to be concerned with politics in general, and legitimacy and support in particular, they need on some level to incorporate the *facticity of other agents' minimal retained agency* into their political action and ideation. This entails letting agents *speak for themselves*, rather than claiming insidiously to *speak on their behalf*[121]. Recognising subjectivity in the absence of normative agreement makes politics a prosaic matter of dealing practically with agents' irreconcilable perspectival uniqueness. In this sense, *subjectivity* as the cause of conflict is the reason why politics exists at all—and its treatment as a political phenomenon to be *dealt with* rather than *ignored* stems from the *relationality* that characterises social interaction.

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[119] Sheldon Wolin, 'The liberal/democratic divide: On Rawls's *Political Liberalism*', *Political Theory* 24:1 (1996), pp.98-105; Michael Freeden, 'Thinking politically and thinking about politics: language, interpretation and ideology', and Elizabeth Frazer, 'The Boundaries of Politics', in David Leopold and Marc Stears (eds.), *Political Theory: Methods and Approaches* (Oxford: Oxford University Press, 2008), pp.115, 173.

[120] cf. Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric: A Treatise on Argumentation* (Notre Dame, IN: University of Notre Dame Press, 1960), p.514.

[121] Spivak, p.273ff.

This discussion of the critical realist treatment of political agency requires a brief caveat regarding its relationship with the continuum of political tendencies between legitimation, or engagement, and domination, or oppression. The reasoning given above for *how critical realism would justify* a political preparedness to take agents' views into consideration is not *prima facie* binding. *By itself*, it does not *guarantee that* critical realism will always advocate legitimation over domination, but rather *accounts for how* a broad 'legitimating attitude' might emerge from critical realist foundations. Critical realism's preoccupation with *Machtpolitik* shows that it is entirely open to theorising the alternative 'route' of domination. Its 'personalist' undertones are fully compatible with an assessment of the power-based devices authority-structures use to bootstrap agents' obedience, *ignoring* agents' relational subjectivity—e.g., socialisation, threats, 'nudging', &c. Indeed, part of critical realism's appeal derives from its ability to 'uncover' situations where a superficial political discourse of agential agreement, social consensus, or deliberative exchange disguises political outcomes achieved by *Machtpolitik*. Critical realism cannot avoid the fact that "most of what ordinary people do believe is a result of having been socialised into a form of life by others who may or may not have had self-serving reasons for promoting what are now dominant beliefs or viewpoints[122]. Nonetheless, critical realism recognises that there is an unambiguous *choice* between 'routes' of more, or less, legitimation and domination—a choice over which power-holders retain both 'decisive capacity' and subsequent 'responsibility'. Given the concern in this project for *legitimation*, the scope of my analysis is restricted to approaches that tend towards what Williams terms the 'critical theory principle': the view that "acceptance of a justification does not count if the acceptance itself is produced by the coercive power which is supposedly being justified"[123]. In other words, my project examines agent-structure relationships *only* in instances where "legitimatory mechanisms" are used to take 'minimal retained agency' into account—i.e., where *it is assumed that power does not justify itself*[124].

Given the argument that *enforcing* (normative) worldviews loses sight of what politics *is* in a significant way, a critical realist project of *legitimation* rather than *domination* must find some way of *expanding its set of engaged agents beyond the restrictive set of pre-discursive sympathisers*, and not stick to 'preaching to the converted'. The way critical realism meets this requirement, first stated as a criticism of philosophical liberalism (see I.B.4), is perhaps best illustrated in tabular form, modelling the

[122] Honig and Stears, p.191.
[123] Williams, *In the beginning was the deed*, pp.6, 27.
[124] Geuss, p.35.

ambitions of the two methodological groups—*exclusion* vs *inclusion* in the audience addressed of those who do not share the ideator's viewpoint—and the *status* of agents' meta-normative commitments—*pre-discursive consensus* (reasonable, transcendent, &c) vs resulting from radically *conflictual political 'play'*.

	Exclusive approach	Inclusive approach
Pre-discursive consensus	Restrictive liberalism *selectivity*	Expansive liberalism *universalism*
Conflictual 'play'	(Prescriptive) Agonistic realism *constrained appeal*	(Interpretative) Critical realism *ecumenical appeal*

It is in this spirit of *ecumenical appeal—expanding* engagement to other agents, but also *taking into account* their *ex ante* perspectival divergence—that I now turn to the question of legitimacy.

III. Legitimacy as persuasiveness

> Our demand to the people … who want to speak for us is that they must learn to speak *to* us and not *for* us——Abahlali baseMjondolo Manifesto[125]
>
> *Ich bin gewohnt, jeden nützlichen Rath anzunehmen, er komme, von wem es auch sei* ('I am used to taking every profitable suggestion, whoever it comes from')—— Karl May, 'Robert Surcouf'[126]

Adopting the critical realist 'legitimation route' and adhering to the 'critical theory principle' restricts, by construction, the scope for *Machtpolitik* to bootstrap agential obedience and bypass 'minimal retained agency'. The key question in this part, then, is: *What conception of legitimacy successfully takes into account agents' divergent vernacular understandings of the processes by which, and conditions under which, political authority is justified?* In other words: Is there an explanation of political authority that avoids the problems of liberal accounts? The conception I advance here aims to satisfy the interpretative constraints I have elaborated. It must work towards ecumenical appeal, giving full consideration to relational subjectivity through openness to 'vernacular' modes of political thinking (from I.B.1, II.2-4), accommodate my reconceptualisation of legitimacy (I.B.2), underpin a broader formulation of political support (I.B.3), and satisfy critical realist criteria of success in political praxis (I.B.4, II.1).

I start by discussing the objects of legitimation—the *legitimanda* requiring justification—namely, the question of an authority-structure's *existence*, and the case-by-case *manifestations* or *enactments* of its authority. I characterise the need for a legitimating process as a 'justification deficit' between the authority-structure's *performance of political action*, and the *political engagement* of agents over whom authority is to be exercised (III.1). I argue for *legitimacy-as-persuasiveness* as the best way of meeting my assumptions about the political 'real', and the fundamentally procedural nature of legitimation (III.2). Next, I compare this account with its liberal rivals using the 'particularity requirement' criticism, and defend legitimacy-as-persuasiveness against three liberal attacks that question how far it improves on current legitimacy theories (III.3-6). Finally, I assess my conception's value as a tool of political praxis that expedites stable relations between political agents (III.7).

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[125] Abahlali baseMjondolo, 'iPolitiki ePhilayo: the Abahlali baseMjondolo Manifesto for a Politics of the Poor'. Emphasis added. Abahlali baseMjondolo is a shack-dwellers' movement in Durban, Pietermaritzburg, and Cape Town, South Africa.

[126] Karl May, *Kleinere Hausschatz-Erzählungen* (Hamburg: Karl-May-Gesellschaft, 1982), p.281.

1. *Legitimanda* I: *political authority*

The question of *what* a legitimacy account explains, or justifies, ties in closely with the question of *why* legitimacy is necessary. As I have argued, politics covers much more than just the rigorous enforcement of policy through uncompromising *Machtpolitik*—which Williams terms "a mere conspiracy of effective coercion"[127]. If politics—following the progressive leanings of the 'critical theory principle'—entertains a more ambitious view of the 'real', a communicative gap emerges between (in general) political *action* or *doing-of-something-to-others* in the raw Geussian sense, and political *consultation* or *involvement*, in the sense of '*engagement*'. I term this gap—best characterised as the difference between *bypassing* others' 'minimal retained agency', and *taking it into consideration*—the 'justification deficit'. This deficit concerns two loci of action: (1) the creation and endorsement of particular 'ideologies of governance'; (2) their propagation through the implementation of practical decisions and proposals. Agents outside the group of those with participatory access to these loci suffer *doubly exclusionary treatment* of their political agency: they are omitted from determinations of not only the *principles*, but also the *practice*, of governance. As a political 'remainder', they are implicitly expected to acquiesce passively to the results of both, as much because of the presumed 'correctness' of the determinations, as the practical fear of losing the underlying *Machtkampf* if they resisted. Legitimacy, in this light, provides a way of *bridging* the justification deficit, and thereby an *alternative* to reliance on dogmatic claims of innate superiority or power-based retributive threats to securing acquiescence. Communicative exchange between authority-structures and the agents affected by their political decisions raises the possibility of mitigating this extreme separation between 'elite' and 'remainder'—in part, by recognising the reciprocal influence agents have on one another's perspectives in political discourse.

My distinction between *principle* and *practice* implies, however, that the *object* of legitimacy is not as straightforward as merely 'coercion' *simpliciter*. Some sense of legitimacy's multifacetedness emerges from Williams' argument that it "explains why state power can be used to coerce some people rather than others and to allow people to restrict other people's freedom in some ways rather than others"[128]—although even this division into 'scope' and 'substance' does not fully capture the complexities involved. Ultimately, legitimacy seeks to explain the *conferral of political authority* in the widest possible sense, beyond granting institutions a status-based ability to create

[127] Bernard Williams, 'From Freedom to Liberty: The Construction of a Political Value', *Philosophy and Public Affairs* 30:1 (2001), p.25.
[128] Ibid., p.25.

and enforce ideals or policies—whether through 'acceptable' coercion, a "capacity to impose duties", or "the right to rule"[129]. Fundamentally, legitimacy justifies the creation of hierarchical structures or power-relationships—i.e., the *instantiation of a social order*—among agents in the political 'real'. Before questions of *what* structures do, *how* they do it, and how this is *communicated* even arise, legitimacy confronts the prior problem of *whether*, and *why*, such a structure should even exist at all. True to realist form, the core preoccupation here is not with webs of rights, freedoms, and obligations, but deeper, coarser disparities in empowerment and agency—which, without a 'legitimatory mechanism', leave power-disadvantaged agents vulnerable to becoming "nakedly the objects of coercion"[130]. The subsequent aspects of structures' authority—i.e., the *enactment of instantiated authority through political activity*—flow on derivatively from the explanation of their initial instantiation. A complete account of legitimacy, of course, must *also* be able to theorise the explicability and justifiability of this activity, in which structures engage *by virtue of* their establishment. I consider the extent to which this distinction between plural *legitimanda* requires special treatment in part IV, but will for now conceptualise the *legitimandum* as authority *in general*, incorporating aspects of *ideation*, *action*, *hierarchy*, and *control*—all suffused with a concern for *political power*.

2. *The role of persuasion: the legitimation story model*

The core of my account is Williams' model of a "legitimation story"—a narrative, rhetorical-communicative construction that aims to "legitimate [political] arrangements to *each* citizen, that is to say, to each person from whom the state expects allegiance"[131]. I view Williams' definition as a *rejection* of the 'static' fixity of liberal *legitimacy-as-'is'* accounts (see I.B.1)—specifically, of the liberal reliance on generalised, universal substantive principles *independent* of the audience to which they are addressed, and intended to apply. Crucially, it introduces a strong sense of reciprocity, mutual dependence, and engagement into the relationship between *legitimator*, *legitimandum*, and *audience* that is missing from liberal accounts, and moves towards the 'dynamic', procedural view of *legitimacy-as-'has-been-done'*. By characterising legitimacy as a *process* of ideational exchange between agents, with implicit focus on the audience, the legitimation story provides the potential for a more nuanced understanding of the *extent* of legitimacy than mere crude assertions of

[129] Thomas Christiano, 'Authority', *Stanford Encyclopedia of Philosophy* (2012), §1.1.
[130] Williams, 'From Freedom to Liberty', p.25.
[131] Ibid., p.25.

its presence or absence, as with static conceptions. Specifically, it raises the need for a gradated criterion to measure a legitimation story's *successfulness*—an attribute of the *story*, regardless of its substance, which determines how likely agents to whom it is directed are to 'buy' it, or how likely the *audience*'s substantive views on legitimacy are to align with those in the legitimation story, represented by the *legitimandum*.

The criterion that, I believe, fits these requirements best is *persuasiveness*: *a legitimandum is legitimate insofar as the audience finds the legitimation story constructed by the legitimator on the legitimandum's behalf persuasive*. Put differently: *an authority-structure is only legitimate insofar as the explanation given for its existence and actions individually convinces the agent to whom it is given*. This conception is highly agent-focused: to persuade an audience, legitimators must pay close attention to *each member*'s subjective, substantive "language of legitimacy"[132] when deciding how to frame the legitimation story. But accommodating agents' beliefs cannot *by itself* ground legitimacy—it is insufficient to argue, following Beetham, that a "power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs"[133]. It is also insufficient, *pace* Rawls, to assume a 'reasonable convergence' in agents' beliefs that grounds *predictive claims about their substance*, and hence *collective generalisation across agents*: structures cannot presume the existence of a pre-discursive "reasonable consensus" where norms of legitimacy are concerned[134]. In a way, my position inverts both Beetham's and Rawls'. For authority-arrangements to be legitimate in *an* agent's eyes, they *must not only be justifiable* in terms derived from *that* agent's subjective perspectives, *but that agent must also find* the arrangements' justification subjectively *credible*; *not only* is an agent's agreement with given legitimacy principles not presumptive, *but* any such principles, and any such agreement, can *also* only emerge from engagement *with that agent*. Legitimacy-as-persuasiveness thus reflects the critical realist insistence that "the process of legitimation is never above but always rather historically located in the fray of political struggles", and 'frees up' substantive legitimacy accounts to "differ radically across time and space, depending on the contours of the precise struggle for power of which they are a part"[135].

With such unambiguous rooting in the 'real', however the story is substantively cashed out later, the potential disjunct between the political exigencies motivating

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[132] Freeden, *Liberal Languages*, p.83.
[133] David Beetham, *The Legitimation of Power* (Basingstoke: Palgrave, 1991), p.11.
[134] Rawls, *Political Liberalism*, pp.48-65, 133ff, 174-94, 289ff.
[135] Honig and Stears, p.182.

agents to seek the establishment of an authority-structure, and the rationale by which authority is justified to them, is minimised to the agent's benefit. Moreover, conceptualising legitimacy as an *iterative* process of reciprocal engagement, not simply bid/offer-acceptance/rejection, reflects the importance of negotiation, trial-and-error, and proposal-experimentation when settling on *mutually acceptable terms* for establishing and explaining political authority. Persuasion, bluntly put, takes time and effort on the part of all involved. Agents are not ideationally passive enough to 'buy' any story put before them, and legitimators are not in a cognitive position to perfectly represent an audience's views. Persuasiveness thus rails against idealist "subversion of the wish", by teasing out *not* "what *we believe* our audiences want to hear" based on "what we want to be true", but what they *actually do* want to hear[136]. The perspectival limitations of both legitimator and audience, and the contextual idiosyncrasies of the legitimation story's formulation, imply that processes of persuasion/legitimation will be unpredictable, discontinuous, and protracted.

A major result of the move towards persuasion is a complete change in the directionality of the relationship between *legitimanda* and agents—in part, almost a reverse. In legitimacy-as-'is' accounts, legitimator and audience are in a hierarchical relationship regarding justifications for the *legitimandum*: particular forms of structure are classed *ex cathedra* as 'legitimate' by elite ideators *qua* legitimators, and acknowledgment of, and acquiescence to, their being so is simply *expected* of agents in the audience. The direction of decisive ideation is from structure to agent: *given* the existence of a certain structure-that-is-legitimate, *then* agents owe it compliance. With legitimacy-as-'has-been-done' accounts, such as my persuasiveness conception, however, the legitimator-audience-*legitimandum* relationship becomes more complex, partly through the greater emphasis on justifying the structure's existence in the first place. In a sense, the agent-focus of procedural accounts exactly reverses the directionality of decisive ideation: *given* certain perspectives on the 'real' of agents in the audience, *then* a certain form of structure is legitimate. However, ideational interactions between legitimator and audience are actually rather more intricate and inchoate, which erodes the clarity of the distinction between the 'roles' of legitimator and audience. With my model, the only feasible distinction is between agents who are *more* convinced of the case for an authority-structure, and those who are *less* convinced. All agents involved play legitimator *and* audience to some degree, and the

[136] Williams, *Truth and Truthfulness*, p.267; Honig and Stears, p.186.

move from *engagement* to the emergence of a consensual legitimation story is less straightforwardly direct than under legitimacy-as-'is' accounts.

This is a novel interpretation of an unusual position, and one that clashes stridently with the instincts that underpin the liberal alternatives. To defend legitimacy-as-persuasiveness, I therefore need a set of common comparative criteria, against which I can measure both my account and its liberal rivals, in order to gauge in what sense my variant is *superior*. I use four criteria: (1) the particularity requirement, which focuses specifically on the relationship between individual agents and *legitimanda*; (2) the fact of radical pluralism, namely how well the accounts deal with the sheer diversity of vernacular views of legitimacy; (3) the accounts' applicability to snap judgments and routine decisions; and (4) their usefulness as *modus vivendi* principles to deal with 'real uncertainty and limitations.

3. *Defending persuasiveness* I: *the particularity requirement*

The *particularity requirement* underpins several of the criticism levelled at the liberal 'political obligation' theories, most notably by *a posteriori* philosophical anarchism (see I.A.3). The requirement stipulates that *specific* authority-arrangements must be justified to *specific* agents *in actuality*, rather than *general, abstract* '*principles* of arrangement' *hypothetically* to a *collective, homogenised mass*[137]. It returns the discussion to the *personalist* dimension of 'the political', specifically the need to treat agents as separate units of analysis due to their perspectival subjectivity and (at least minimally) independent agency—a dimension downplayed by arguments from the 'natural duty of justice' or 'fair play', and misappropriated by those from 'associative obligations' and 'gratitude'. The familiar aspect of this accusation against 'political obligation' theories is that they lack the ontological and sociological groundwork to establish coherently why what they see as 'good' or "presumptively beneficial"[138] necessarily suits *all* the agents in a political group—which I have countered with the subjectivist ontology underpinning my critical realist methodology (II.2-4).

However, I want to sharpen the particularity requirement, and take the argument one step further. *Because* extant theories assume such similarities between agents' views, needs, and preferences, they tend to erode the *analytical* separation between the agents *themselves*, losing the ability to 'speak to' agents individually, rather than collectively. By positing agential *agreement* on given foundations of legitimacy-as-'is'

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[137] Simmons, *Moral Principles and Political Obligations*, p.31; Simmons, *Justification and Legitimacy*, pp.125, 137ff; Dworkin, *Law's Empire*, p.191.

[138] Klosko, p.6.

and 'obligation', liberal accounts assume *some homogeneity and concertedness in intention and behaviour*—i.e., implicit pre-existing agreement on the importance of liberal values, and adherence to liberal virtues—across the agents *they are interested in*, which can obscure areas in which inter-agential resemblance cannot be assumed. The result is that, for theoretical convenience, liberalism risks eliding political agency from a *separate attribute of individual agents* into a *joint attribute of collectivised groups*—the just, the pro-welfare, the associatively conscious, or the faithfully nationalistic. With the *notable exception of explicit consent theory*, liberal accounts see agents as 'cogs' in larger, higher-valency social processes—systems of 'fair' service/resource-exchange, just democratic institutions, *prima facie* significant social ties, &c[139]—and the valorisation of gratitude, fairness, justice, and associative membership derives from this *collective* rationale. Insofar as these liberal accounts take their lead from the 'real', the logic of the mass consistently trumps individual agents' metaphysical claims. The question is neither asked, nor answered, whether what suits the *group*, or *society*, also suits *individuals*: it is simply assumed that, once the 'statecraft' has been finalised, no further, specifically *personalist*, explanation is required.

Liberal accounts' lack of specificity towards their audience is mirrored by their unwillingness to go beyond generalised discussion of what they are justifying. Bluntly put: *the extant theories only seek to explain why authority in general is justified tout court*—ignoring any distinction between *instantiations* and *enactments* of authority, and the uncertain, flexible contextual nuances in agent-structure relationships[140]. This approach is remarkably simplistic: 'the political' does not conform to broad-brush characterisation, and it is specifically the changeability of the 'real' that has maintained legitimacy and support as enduring political concerns. When liberal accounts stipulate reasons why a particular authority-*type is* legitimate and thus *ought* to be obeyed, they are not trying to rationalise a 'real' *situation-at-hand*, but rather constructing an acontextual framework, or template, designed to apply to *any* situation that arises—an *ex ante* argumentative 'pre-emptive strike', instead of more turbulent reasoning *in medias res*. The success of this approach depends heavily on how far *legitimanda*-situations conform predictably to this template—i.e., whether all *instantiations* and *enactments* of authority converge to a particular essential similarity, from which a *general* account of authority can be specified such that *it alone* requires justification. But the sheer multifarious diversity of the 'real'—the divergent plurality

[139] Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993), p.137; cf. Horton; Hardimon; Dworkin, *Law's Empire*.
[140] Christiano, 'Authority', §§1.1-4.

of possible contexts and the subjective uniqueness of agents' perspectives—makes substantive characterisation of such a template impossible. Politics is not as transparently foreseeable as the extant theories seem to believe: resolutions are hard-won, case-by-case flickers of stability, and the agent-structure relationship can only be worked out one interaction, and one power-manifestation, at a time. Any successful account must thus explain why a *particular* agent has reason to support and obey a *particular* authority-structure *in a particular situation*. At most, the analytic 'bare bones' to which theorisation of agents' relationship with authority can be reduced is the recognition that legitimacy and support cannot be treated in the sweeping terms of liberal theory, but instead heuristically, modestly, and at the personal level.

In this light, I suggest that my *extended* particularity requirement is best served by the rival account I have outlined. Legitimacy-as-persuasiveness places the individual agent at the centre of 'the political'—relationally-connected to their peers, and shaped by immediacy to contextual reference-points, but unambiguously an independent unit of analysis—and avoids the slide into conceptual collectivism. Focusing on *persuasion* gives agents ultimate control over their subjective views, emphasising the crucial role of 'final arbitration' that agents' 'minimal retained agency' plays in guiding their perspectival development. This implies that legitimacy is *particular* in the sense—which liberal accounts cannot capture—that it is rooted in agents' separate, unique lived experiences of the 'real', and the structure of their political relationships, such that agents carry *individually* the onus of judgment[141]. Under critical realism, neither structures nor agents can escape the necessity for *some kind* of individualistic component in the legitimating process—political choices are agents' to make *for themselves*, not for structures to make *on their behalf*. This ethos of empowering agents to fulfil an active role in decisions that affect them is central to the way legitimacy-as-persuasiveness takes agents' 'minimal retained agency' into consideration. It offers a useful tool to incorporate the contextualist 'checks' separating my critical realist *individualism* from bare *atomism* (see II.3), while positing a direct alternative to the 'logic of the mass' prevalent in certain liberal theories. Specifically, it accounts for the stochastic proliferation of agency within a social group that makes a particularistic approach the only plausible way of theorising the disparate complexity of the 'real'. Critical realism imbues legitimacy-as-persuasiveness with an undercurrent of *fragility* and *contingency*. Critical realist politics is not as blithe or easy as liberal politics, and contextual vagaries blur and

[141] Galston, 'Realism in Political Theory', p.400.

stretch the line between engagement and oppression—an angle on *contextual* particularity which the self-assurance of liberalism lacks.

4. *Defending persuasiveness* II: *radical pluralism*

My second argument for the superiority of legitimacy-as-persuasiveness begins with a possible liberal criticism: *Even if legitimacy-as-persuasiveness better analyses the personalism of agent-structure relationships, stipulating persuasiveness as the sole criterion of legitimacy adopts the same approach of monistic universalism for which the liberal accounts are criticised*. The suggestion here is that *arguing that authority-arrangements must be persuasive to be legitimate* is methodologically the same as *arguing that they must be just, democratic, consensual, or targeted at achieving some specified good*—and thus equally prone to alienating agents who disagree with this assessment. It is implied, therefore, that my account fails to improve on the liberal conceptions because it cannot criticise what they set out to do—i.e., stipulate fixed conditions under which an authority-arrangement is legitimate—without hypocrisy, as it also shares this aim. As such, it is argued, my account cannot provide a *prima facie* reason why it fits better with political reality: its treatment of the diversity of agents' views on legitimacy is no broader than its liberal equivalents'.

I counter this criticism in four ways. First, the criticism fails to pick up on my fine-grained distinction between universalism (which my account abjures) and *ecumenical appeal* (which it aspires to). Through its commitment to subjectivity, my conception recognises that *persuasion* concerns the interaction of multiple *incommensurable*, *objectively unverifiable* perspectives, unlike liberal accounts, which deal in the currency of *defending the correctness of valorisations*. In my account, agents cannot assume that others share their views: at best, they can assume *that* agents have some view on legitimacy, but can make no further claims regarding *what* that outlook is. Legitimacy-as-persuasiveness thus shifts the focus away from different ways of cashing out the legitimation story's *substance* towards a greater emphasis on its *credibility*—concentrating on *what agents think of* authority-arrangements, not *what these arrangements are*. My account is thus fully aware that the story results from an elaborate series of interactions between highly divergent perspectives, and that the final 'say' on its credibility is reserved to individual audience members' judgment. By eschewing *ex ante* substantive commitments and relying on agents' contextualised 'language of legitimacy', my conception acknowledges the agent-contingent diversity of legitimacy-accounts' substantive content—so it cannot endorse any form of

universalism. Of course, my account must have *some* content in order to have something with ecumenical appeal—but the point of my retreat from *universalism* is that the judgment-call as to whether this content *actually does appeal and apply* is agents' alone, and not for *any* legitimacy-account to assert. This is, therefore, the distinction between universalism and ecumenical appeal: universalism *specifies non-contingent* criteria of 'what *is* correct', while ecumenical appeal *suggests contingent* criteria of 'what *agents may find* applicable'. The distinction is here also a difference in the *level of analysis*: the universalism of liberal approaches is concerned with *valorising* 'the political', while the aspiration of legitimacy-as-persuasiveness to ecumenical appeal is concerned with *how to deal with valorisations of* 'the political'.

Second, following on from this divide between 'suggestion' and 'specification', the criticism misunderstands the underlying aim of legitimacy-as-persuasiveness. It implies that I set out to show that the liberal accounts are demonstrably *wrong* in some sense, that the way legitimacy-as-persuasiveness theorises the 'real' is not only *better* than the liberal way, but also the *only correct* way. That is not my aim: there are clearly situations where liberal principles of legitimacy apply—*some* agents evidently prefer their authority-structures democratic, just, consensual, respectful of human rights, &c. Given the different levels of analysis my account and the liberal variants are operating on, legitimacy-as-persuasiveness and liberal accounts are not *qua se* incompatible—*some* agents find legitimation stories incorporating liberal principles persuasive, and structures that adhere to them legitimate. But the richness of views in 'the political' does not end there, and *this* is what my account aims to address. Plenty of agents hold views about legitimate authority which liberal accounts cannot cover, or with which they are deeply uncomfortable, even if these agents are satisfied, even convinced, of their 'correctness'. Some foundations frequently passed over by liberalism include: theocratic principles; chivalric or religious 'honour codes'; Weberian charisma; Aristotelian 'character', civic republicanism; minarchic-libertarian respect for the rule of law and natural rights; strong individual leadership in any sense, from *dictablanda* to enlightened despotism; or the Humean historic-traditionalist observations of "long possession", "present possession", "succession", and "positive laws"[142]. The 'real' offers many legitimation stories which liberalism either *ignores* (restrictive liberalism) or *vilifies* (expansive liberalism). Liberalism thus

[142] James Madison, 'Federalist No.10', in Robert Maynard Hutchins (ed.), *American State Papers, The Federalist, J.S. Mill* (Chicago, IL: Encyclopaedia Britannica Inc., 1987), pp.49-53; Weber, *Economy and Society*, III.10; Bernard Yack, 'Rhetoric and Public Reasoning: An Aristotelian Understanding of Political Deliberation', *Political Theory* 34:4 (2006), pp.429-30; Hume, *Treatise*, III.ii.10; cf. Roderick T. Long and Tibor Machan, *Anarchism/Minarchism: Is a Government Part of a Free Country?* (Aldershot: Ashgate, 2008).

offers *inconsistent*, *arbitrarily selective* recognition of agents' ability to determine *subjectively* what *they think* makes an authority-arrangement legitimate, and consequently which legitimation stories *they find* persuasive. Thus, it is not so much that liberal accounts are *wrong* as that they are *insufficient* to accommodate the radical pluralism of the 'real'. By contrast, legitimacy-as-persuasiveness *uncovers* 'options' latent in the 'real', and *reveals alternative ways of looking at legitimacy substantively* using a criterion accessible to agents *irrespective* of their substantive views.

Third, legitimacy-as-persuasiveness improves on its liberal rivals by *dealing more subtly with* the *interactive aspect* of perspectival divergence than the brutal binary of 'agree or be damned' implied by liberal legitimacy-as-'is' conceptions. Instead of treating the absence of assumptions applicable across all agents as a source of frustration, and *de facto* sufficient reason to withdraw to only addressing those already inclined to share, or sympathise with, one's perspective, legitimacy-as-persuasiveness incorporates and works around it, using the relational foundations of perspectives as a starting-point. Crucial here is the recognition that perspectival agreement and disagreement is neither *fixed*, nor a one-shot 'verdict', nor a discrete classification. Agents' views are not instantly knowable: others will only become aware of their full extent and complexity incrementally, and over time, due mainly to cognitive and communicative constraints. It may be possible to identify loci of partial overlap that give a more nuanced, continuous picture of the 'alignment' of agents' perspectives—making legitimacy a comment on the *extent* of such 'alignment' *as it emerges*. Agents' perspectives depend on their prior experiences of the 'real', and thus vary according to context and agents' reflective interpretation. Legitimacy-as-persuasiveness finds it unproblematic that differences between agents may be irreconcilable initially, or at a certain juncture, such that no legitimation story seems able to persuade all of them simultaneously. Instead, it highlights the possibility of discovering common ground to work from *through extended engagement over time*, by virtue of agents' exposure to, and increased awareness of, others' subjective views.

Fourth, legitimacy-as-persuasiveness escapes the monism charge because it expands on the extant tendency within the liberal 'political obligation' tradition towards *pluralism of principles*, in the form of the hybrid theories (see I.A.2-3). Conceptually, the hybrid approaches recognise that radical perspectival pluralism makes it nigh-on impossible to stipulate an account that has *both* detailed substance *and* wide coverage of agents and contexts, and thus try to 'cover all bases' by invoking a *range* of 'correct' legitimacy principles. My response to this tendency is: why stop

there? Restricting the diversification of 'permissible' legitimation stories to mere permutations of the familiar liberal theories is an arbitrary, unimaginative exercise in ideational conservatism. Once the decision about which principles can be hybridised and combined into legitimation stories is left *open-ended*, it is only a small step to argue that liberal attempts to substantively pin the principles down to make them *fixed* instead of *fluid*, and *acontextual* rather than *contingent*, is quixotic and misguided. Legitimacy-as-persuasiveness *harnesses* agents' unique responses to 'real' exigencies, and uses heuristic-hermeneutic processes to discover the valent commitments at any given juncture. Persuasion assumes not just *static* perspectival differences between agents, but *dynamic* interaction and reciprocal communication between them as well—which grounds a sense of ideational *compromise* and *co-development* between perspectives that essentialist liberal accounts cannot incorporate. The process that persuades agents and legitimates the *legitimandum* also produces the legitimation story: through reciprocal, relational engagement, agents help shape the legitimation story to make the 'end product' persuasive—and its *legitimandum* legitimate—as far as possible from the perspective of the agents involved in its construction. *This* approach to radical pluralism is wholly absent from the liberal *status quo*—hence my decision to explore legitimacy outside the liberal framework.

5. *Defending persuasiveness* III: *decision-making*

My next argument starts with a second criticism: *If legitimacy-as-persuasiveness aims to accommodate perspectival pluralism through dynamic engagement, it will be less useful as an 'everyday' principle by which agents determine quickly whether a structure or action is legitimate*. The suggestion here is that my procedural conceptualisation of legitimacy as emerging from inter-agential engagement is of little use when agents do not have the time or opportunity to engage. If snap decisions and judgment-calls must be made at short notice due to 'real' exigencies—e.g., an unexpected choice between courses of action, or an imminent coercive threat—waiting for the results of discursive engagement is not an option, and looks somewhat fanciful. By contrast, a principle such as explicit consent allows simpler, more transparent, 'factual' discrimination between legitimacy and illegitimacy than the intensely subjective criterion of persuasiveness. In other words, legitimacy-as-persuasiveness fails to improve on the insights of *a posteriori* philosophical anarchism (see I.A.3), as it *confuses* the attribution of legitimacy instead of *clarifying* it.

I offer two counter-arguments to this criticism. First, legitimacy-as-persuasiveness can easily countenance the use of simple principles to make short-notice decisions, as it comments on the *way* that monistic principles, like explicit consent, *emerge as viable discriminators at all.* I accept that simple principles probably trump complex ones where 'decisionist' concerns of passing judgment quickly are prioritised—which may favour views focusing on single attributes, such as democracy, welfarism, or consent, rather than the hybrid accounts that have also been put forward. However, the common feature of all such criteria, irrespective of their simplicity or complexity, is their assumption that agents who apply them in critical situations *have already recognised, or agreed on, the pertinence of these criteria to questions of legitimacy*. This pre-existing presumed 'settledness' of criteria is what legitimacy-as-persuasiveness addresses: when agents determine the legitimacy of a political phenomenon using such criteria, they do so based on an *assumed contingent similarity* of the juncture at hand to their cumulative past experiences of 'real' agents and contexts. Agents use principles because they have already *been persuaded of their suitability beforehand*. The shorter-notice the decision, the more limited agents' ability to corroborate and confirm their assumptions through discussion, observation, and reflection. The 'quickness' or 'simplicity' of a principle like explicit consent does not make it immune to temporal constraints that preclude a full legitimacy-assessment—e.g., finding out information about agents and contexts, weighing up and dismissing rival principles, &c. As a result, 'everyday' applications of apparently foolproof principles become a matter of extensive ontological guesswork. Legitimacy-as-persuasiveness can play that game too: instead of adhering rigidly to a *single* monistic principle whenever a legitimating situation arises, agents choose each time to act *according to whichever principle of which they believe, from their heuristic experience, they would be able to persuade agents affected by their decision*. Given the compatibility between persuasiveness and the various substantive accounts, this principle might sometimes very well be explicit consent, but at other times a different criterion, like fairness, efficacy, or decisiveness.

Second, the facilitation of quick-fire verdicts about political phenomena is not necessarily the sort of 'decisiveness' agents look for in a criterion of legitimacy. For decisiveness to be anything more than equivocally worthwhile, it must fit with more obvious 'virtues of argument', such as rigour, accuracy, coherence, and logical completeness[143]. The faster a verdict on a given phenomenon's legitimacy is reached,

[143] Daniel McDermott, 'Analytical political philosophy', in David Leopold and Marc Stears (eds.), *Political Theory: Methods and Approaches* (Oxford: Oxford University Press, 2008), pp.11-28.

the more it will rely on *guesswork* rather than sophisticated, thought-through *reasoning*—which, even by wholly subjective criteria, casts doubt on the verdict's quality, correctness, and implicitly its likely stability. The criticism's reduction of 'decisive' treatments of legitimacy to a series of snap judgments also grossly distorts how politics works. Given the potential long-lasting and deep 'real' ramifications of political decisions, it seems doubtful that letting agents take decisions and make judgments *almost without thinking about them* constitutes a 'good way of doing politics'. Instead, legitimacy-as-persuasiveness imbues such decisions with a clear sense of consequence and deliberative 'consideredness'—a combination of *chronos* and *kairos*—appropriate to the magnitude and durability of the objects in their purview. Further, associating legitimacy with 'everyday' decision-making devalues the significance of treating social phenomena as *legitimacy-concerns*. Casting a situation where agents choose between 'options', judge phenomena, or decide 'what to do', as a question of *legitimacy* is not a flippant terminological shift, but a weighty reframing of the valency, implications, and criteria with which the situation is associated—specifically, its conversion into a concern with *authority*. Regardless of the criteria's simplicity/complexity, agents simply do not assess *every* relational interaction with power implications by standards of legitimacy. Rather, they determine subjectively whether situations are suited to receiving 'the legitimacy treatment', and escalate its perceived gravity accordingly. The core realisation here, then, is that legitimacy-as-persuasiveness does not aim to cover *all* the political phenomena agents face.

6. *Defending persuasiveness* IV: *persuasiveness as a* modus vivendi

My next argument starts with a third and final criticism: *Given the limited scope of application of legitimacy-as-persuasiveness, it fails in its aim to attain ecumenical appeal, and offers no improved guidance for assessing the political 'real'*. The argument here is that, by conceding that legitimacy-as-persuasiveness cannot apply to all political contexts, my account has restricted its purview arbitrarily in the same way as I accuse liberal theories of doing. This, in turn, calls into question my legitimacy conception's claim to represent the 'real' better than liberal accounts—especially its ambition to accommodate the radical plurality of vernacular views on legitimacy.

I offer two responses to this attack. First, legitimacy-as-persuasiveness's apparent scope-limitation is not grounded in a rejection of the relevance or permissibility of views outside its purview—as with (respectively) restrictive and expansive liberalism—but a recognition of the stochastic unpredictability of the 'real', and the

deficiencies of agential cognition. In other words, the 'limitation' is less a constraint than a caveat: legitimacy-as-persuasiveness acknowledges agents' imperfect ability to 'think of' all possible situations to which a particular *substantive* principle of legitimacy *might* apply in advance. Given its aspiration to ecumenical appeal—to different agents *and* contexts—it finds the possibility of failing to 'speak to' any situation due to its *construction* and *characterisation* deeply dissatisfying. Legitimacy-as-persuasiveness thus adopts a framework that allows it to flexibly accommodate principles that have not yet been 'thought of', aiming for ecumenical appeal where it matters the most—namely, vis-à-vis the agents from whose perspectives on the 'real' new substantive principles of legitimacy emerge. Obviously, my account is at the mercy of current cognitive limitations, like any theorisation of the 'real', but it nonetheless captures an inquisitive openness towards future theoretical and vernacular developments in 'thinking about legitimacy' which liberal accounts lack. This notably includes agents' prerogative of determining case-by-case whether situations call for the application of 'legitimacy reasoning'. Legitimacy-as-persuasiveness does not claim to predict precisely whether, and when, it does, or does not, apply—it merely leaves open the possibility that either may be the case, depending on the contexts and agents in question.

Second, legitimacy-as-persuasiveness's procedural dynamism makes it a better *modus vivendi* principle for the practicalities of political exchange than static liberal conceptions. By tying legitimacy to *continuous engagement*, rather than one-shot moments of agreement (i.e. consent theory) or contingent institutional principles (e.g. democracy), persuasiveness pursues a 'way of least resistance'. Legitimacy-as-persuasiveness uses engagement to stave off violence between agents *as long as possible*, and mitigate the slide of radical *perspectival disagreement* into *conflictual enmity*. Though this position may appear superficially similar to Habermasian account of consensus through communication, or Rawlsian ideals of 'reflective equilibrium' and 'overlapping consensus', legitimacy-as-persuasiveness is considerably less optimistic about agents' capacities and motivations to engage, or the utopian purity of situations in which engagement takes place. Agents interact to construct a legitimation story only because *that is how they are accustomed to getting their ideational bearings*, and because the exigencies of the 'real' mean that they *cannot avoid interacting* with *legitimandum* authority-structures, or agents who have constructed them, over the course of their lives. Thus, it cannot be assumed that agents' engagement-to-persuade is motivated (*pace* Rawls or Habermas) by a centripetal desire to be 'reasonable' or

convivial[144]; nor that their demeanour will be respectful and enthusiastic, rather than stubborn, intransigent, or grudging; nor that the legitimation-story outcome will be consensual, and not (at best) a messy, attritional compromise. Legitimacy-as-persuasiveness only claims to offer a way for agents to deal practically with subjective, contingent differences in substantive views on legitimacy *without* simply relying on appeals to the *a fortiori* correctness of their preferred views, backed by the naked use of coercive power.

7. *Political praxis* I

Finally, legitimacy-as-persuasiveness trumps its liberal rivals by criteria of *political praxis*. First, it has a significant *tactical* advantage over legitimacy-as-'is' conceptions, given the tactical priority of reaching a stable (if temporary) 'node of closure' on the existence of a authority-structure, and its substantive characteristics. Legitimators confront the risks of the 'real'—potentially irreconcilable differences between their audience's perspectives and their own, and possible 'real' contingencies that make their account badly suited to certain contexts. They must thus *intervene* in the 'real' in some way to *instantiate* authority, so that *enactments* coloured by their legitimacy-ideal can even take place. Without agents' cooperation, legitimators undertaking such intervention need significant expenditure of power-resources to attain social/ideational stability. They could use any favourable power-disparity to bootstrap the 'real' to bypass agents' seeming 'intransigence' towards political progress—e.g., manipulating how agents think to curb disagreement, whether by cultivating a socialised *governmentality*, or, fancifully, 'putting drugs in the water'[145]. Of course, the 'critical theory principle' proscribes this course of action, however convenient it might be, as such synthetically-engineered pre-discursive normative consensus abandons the crucial *distinction between legitimation and domination*. Instead, an approach that uses engagement, rather than *Machtpolitik*, to 'get agents onside'—as legitimacy-as-persuasiveness sets out to do—makes for an *ex ante* more authentic establishment of political authority that is (by construction) *saleable* and satisfactory to the agents involved. By engaging with other views within the group that will become the structure's jurisdiction, agents work towards a *more thoroughly decisive* result than the power-based resolution of legitimacy-as-'is' accounts. Relevant alternatives are more likely to be explored and accounted for, and the process confers

[144] Rawls, *Political Liberalism*, pp.48-53, 133ff, 385-95.
[145] Michel Foucault, *Ethics: subjectivity and truth*, Paul Rabinow (ed.) (London: Penguin, 2000), pp.68, 74-5, 88.

'ownership' of the outcome on those taking part in the legitimation story's formulation. Altogether, the closure reached by the resolution of engagement is *credible* in a way that legitimacy-as-'is' accounts are not: political authority is rooted in perspectival alignment rather than *merely* power imbalances, so that the resolution's *perpetuation* becomes more *plausible*, and less *wasteful* of power-resources.

Second, legitimacy-as-persuasiveness enjoys a major *strategic* advantage over liberal accounts, taking the primary strategic concern as the *ensured perpetuation* of agreement on the contingent authority-instantiation—as an end in itself, and instrumentally to enable social progress onto subsequent decision-points. Legitimacy-as-'is' conceptions have little strategic value beyond maintaining the interest of agents who are already *ex ante* predisposed to see their appeal (see I.B.4). Liberal accounts either make no attempt to expand their applicability beyond the narrow constituency of their essential appeal, or do so in a way that fundamentally misunderstands 'real' agents' behaviour, and is thus bound to fail. By contrast, legitimacy-as-persuasiveness—by distancing itself from valorised assumptions about the 'real'—can incorporate agential disagreement and perspectival conflict *at any stage* of an authority-structure's existence. Thus, in principle, *any* agential disagreement can be 'fed into' a process of engagement-to-persuade, *independently* of agents' involvement in, or absence from, the structure's initial establishment/legitimation. Put differently, legitimacy-as-persuasiveness can easily theorise 'real' situations where *some* interaction between radically differing agents is inevitable—which liberal accounts either ignore, or approach in the wrong way, leaving such exigencies to be weakly 'solved' through naked *Machtpolitik*. This, of course, applies equally to agents who *start off* persuaded by a legitimation story they have helped create, but subsequently disagree with the practical manifestations of authority post-instantiation. To achieve progress and stability, legitimacy-as-persuasiveness provides a way of 'renewing' established authority-structures' legitimacy—or of 'keeping onside' agents persuaded by the legitimation story by giving them a 'stake' in the continuation of what they have established. Engagement-to-persuade is thus far from a one-shot, finite process, since if it is adhered to consistently, social decisions will involve processes of interaction, compromise, and mediation at every juncture where disagreements emerge. Perspectival alignment is not *taken for granted* once initially established, as with liberal accounts, but continuously reaffirmed. Quite simply, legitimacy-as-persuasiveness *makes authority-structures work harder* to 'earn' their legitimacy, but *also* gives them the necessary political tools to do so successfully.

IV. Support through engagement

> *Der Weg ist das Ziel* ('The way is the goal')——German proverb, free translation of the Confucian expression *Zhi Yu Dao* ('I have set my will to the Path')
>
> *Caminando preguntamos* ('As we walk, we ask')——slogan of the Zapatista movement *Ejército Zapatista de Liberación Nacional*, Chiapas, Mexico

Legitimacy-as-persuasiveness provides a mechanism that establishes conditions for reaching 'nodes of closure' for *instantiations* and *enactments* of political authority. The second part of my project focuses on giving such 'nodes of closure' *duration* and *stability*, and theorising *agents*' role in legitimate power-relationships—i.e., formulating a critical realist account of political support. Specifically, my question here is: *What conception of political support accounts for the move from a structure's being legitimated to its enjoying agents' sustained obedience?* Alternatively: What political mechanism makes agents' agreement with a legitimation story binding? The foundation of my argument is the separation between *dynamic* legitimacy and *support* that emerges once the essentialist connection between *static* legitimacy and *obligations* is abandoned (see I.B.3): I aim to provide the 'missing link' of reasoning that cashes out the agent-structure relationship beyond the mere initial avoidance of hostile resistance. I take my cue from the interactive *reciprocal relationality* between agents my critical realist methodology endorses, and the *engagement* between structures, legitimators, and audience crucial to my legitimacy-as-persuasiveness account.

I begin by examining the legitimacy-support divide, arguing that a structure's legitimacy *simpliciter* is an open-ended political status, only 'setting the stage' for agents to agree and obey, without ensuring that they *actually do* (IV.1). I bridge the legitimacy-support gap by theorising the broad range of forms of political support in vernacular political thinking, and highlighting the role of demonstrable action to 'anchor' this support (IV.2). *Singular instances* of engagement are insufficient to ground *durable*, *stable* political support, so I look for ways in which a broader *ethos of engagement* could remedy this deficiency (IV.3). Next, I analyse the impact of different forms of support on the relative roles of agents and authority-structures (IV.4). I then assess the implications of my account for situations where legitimacy and support *lapse*, and their impact on agents' and structures' expectations for, and ability to predict, each other's behaviour (IV.5). Finally, as in part III, I assess the 'real-politics' value of my account by weighing it against realist criteria for political praxis (IV.6).

1. *From legitimacy to support*

The liberal elision of the distinction between legitimacy and 'political obligation'—its narrow, rights-centric account of political support—obscures the finer nuances of the *questions asked and answered* by different parts of a theory of legitimacy and support. Fundamentally, a theory of *legitimacy* answers the question '*why*': it provides agents confronted with the instantiation or enactment of authority, and the choice between agreeing or disagreeing with it, or obeying or disobeying it, with a 'case' for why agreement or obedience is—by whatever criterion—the superior option. This 'case' is both *genealogical* and *normative*. Legitimacy explains how agents reach a position of meaningfully choosing whether to agree/obey, as well as stipulating that agreement/obedience is in some way 'right' or 'good', and disagreement/disobedience 'wrong' or 'bad'. This, in part, is where *static* and *dynamic* legitimacy diverge. The former sees legitimacy as indicating an unequivocal *moral ought*, where the pull towards agreement/obedience rests on *normative truth*; and the latter sees legitimacy as indicating an *appealing legitimation story*, where the pull rests on *perspectival alignment*, motivated by aesthetic, emotive, strategic, &c, as well as normative concerns. In other words, dynamic legitimacy does not answer the question '*whether*' agents agree/obey. *Static* and *dynamic* legitimacy both give agents *reason* to do so, but only static legitimacy assumes that this reason is decisive, or binding—dynamic legitimacy *on its own* jumps to no *additional* conclusions about how agents behave, and is thus, to this extent, 'open-ended'.

This insight from the shift from static to dynamic legitimacy runs even deeper, and touches on the core difference between legitimacy-as-persuasiveness and liberal conceptions—namely, the primacy of agential perspective in my analysis of legitimacy and support. Simply put: *Without an agent-independent criterion of legitimacy, there is no way of enjoining agents to agree* (1) *that an instantiation of authority is legitimate; or* (2) *that it therefore merits their support*. In other words, while a structure's legitimacy depends on the persuasiveness of the legitimation story it provides, it cannot erode the seminal role of minimum core agency in 'completing' legitimation *in agents' eyes*. However swayed their reasoning may be by contextual, relational, intersubjective influences, *it is ultimately agents' subjective choice to accept the legitimation story that determines whether agreement on the structure's legitimacy has been decisively reached*. In theory, it is therefore possible that a structure is legitimate—i.e., agents find its legitimation story persuasive—but its constructed coercion-obedience relationship nonetheless breaks down because agents refuse to support it. I concede that such a

situation is fairly unlikely in practice. Only a somewhat facetious, or bloody-minded, agent would engage in intense negotiation over the *legitimandum*, only to then casually reject an outcome which they have tried hard to align as closely as possible with their own views. However, the point remains that, for discussion of political support to even start, agents themselves must take the step of *agreeing with the legitimation story* to *confirm its persuasiveness*—thereby *establishing the structure's legitimacy*—and *commit themselves to obeying and supporting it*, as, by construction, the structure cannot force this outcome on its own.

Given this conceptual break between legitimacy and support, which only agents can fill, my account of political support is restricted to situations where agents *have* decided to obey and support the structure in question—i.e. when the legitimation story has made agents *feel sufficiently that they should* obey and support it, so that they actually choose to do so. However, this does not diminish the importance of having an account of political support in any way. It is undoubtedly *useful* if agents and structures are mutually enthusiastic and benignly intentioned, but this still does not answer the question of '*how*' agents agree, obey, and support—i.e., how agents *demonstrate* their preparedness to support a structure, and how structures 'seal the deal' with agents. A full answer to this question has two parts, corresponding to the *affirmation* of support, and its *sustainment*. First, regarding an authority-structure's ability to *count meaningfully on* agents' support, it becomes useful to theorise how agents *signal* their intention to support the structure through mutually recognisable actions, or processes. This is the concern of the different forms of political *dedication* discourse—the ways agents publicly manifest their felt commitment to obey and support a structure. Second, given the overriding subjectivity of agents' decisions to give a structure their support, or to withdraw it, it cannot simply be assumed that once their support is given—especially via formalised dedication—it is indefinitely guaranteed. For the agent-structure 'alignment' attained by dynamic legitimacy-as-persuasiveness to be preserved, or perpetuated, a mechanism is needed to *absorb variations* in agents' perspectives on their relationship with structures, and reduce the chance of *dissent* sliding inexorably into *disobedience*.

2. *Political dedication*

Public affirmation of an agent's intention to support and obey a given authority-structure is not strictly *necessary* to establish support—it is merely an *expedient* way of 'announcing what has already been achieved'. Taking into account agents'

individualised 'ownership' over their subjective perspectives on the 'real', it becomes clear that only agents themselves can reliably give an (approximately) accurate representation of their own attitude towards the structure at any given point. That is to say, if agents do not communicate their attitude in a publicly recognisable way, it is impossible for anyone else to guess meaningfully at, let alone 'know', their intentions, beliefs, or motivations—implying that structures *without* such an 'affirmation mechanism' could not plausibly *rely on* agents' favourable constancy. Of course, structures may enjoy continuous, unwavering tacit *de facto* support from agents who cannot, or choose not to, articulate it formally—just as they may suddenly lose the affirmed *de dicto* support of agents who have explicitly professed it—but the addition of a communicative 'layer' uniquely helps *clarify* the situation between agent and structure, *stabilising* their relationship, and *enabling* subsequent political development. To mitigate uncertainty, then, the most unambiguous method of public affirmation is a form of *direct committing action*—a *performative*, or at least *communicative*, action with an intersubjectively-recognised ascribed *meaning* of confirming agential support. The importance of such a *concrete*, relational act that binds structure and agent together lies crucially in its 'real' nature: it gives both parties a *clear reference-point to draw on* during subsequent relational crises and disagreements in their mutual association.

A possible objection here might be that this performative act of commitment is little more than a rephrased explicit consent mechanism, and therefore vulnerable to the same criticisms as consent theory (see III.3-6)—in particular, the Humean point that such mechanisms occur too rarely in practice to be useful as models for grounding support[146]. However, I dispute the accuracy of both this analogy and this criticism—though I freely admit that I am more sympathetic to explicit consent theory than to other liberal accounts. First, the kind of *agreement* (with the legitimation story) that underpins agents' motivation/intention to *commit* to supporting an authority-structure is not necessarily as positive, determined, or enthusiastic as 'consent' implies. Agents may decide to support a structure whose legitimation story they have helped shape, but which through compromise and discursive erosion has departed so far from their 'ideal' that their decision stems more from dislike of the alternative—e.g., anarchy vs authority—than heartfelt approval of the structure *qua se*. Consent theory thus underestimates the prevalence and significance of 'indifferent' or apathetic "don't-mind"-type political reasoning—represented by quasi-passive forms such as *acquiescence*, *assent*, *permission*, *acceptance*,

[146] Hume, 'Of the Original Contract' and 'On the Origin of Government', pp.37ff, 469-73.

or *non-obstruction*—whereby agents 'go along with' political arrangements because they feel *sufficiently* persuaded that they have *no reason not to*. Such *acquiescent indifference*, weaker than *endorsement* but still strong enough to motivate decisional choice, lies outside consent theory's scope of theorisation. Moreover, consent theory valorises *promise-giving* as grounds for 'obligation' in a way totally alien to my account of dedication: here, the act of commitment *itself* is not *integrally necessary* for agents to actually give a structure support. Its function is largely symbolic, acting as a ratifying 'seal' on the agent's *already-established* decision to obey the structure. Formalising this into a 'real' action is merely an expedient way of squaring the philosophical importance of agents' subjectivity with structures' practical need for stability.

Second, consent theory underdetermines the *types* of acts that count as commitment-giving mechanisms, weakening the criticism that they do not occur in practice. It completely ignores several possible mechanisms that lie outside *rational* logic, or do not align with liberal goods, yet are nonetheless frequently-used and important vernacular affirmations of 'support'—e.g., expressions of allegiance, loyalty, sympathy, and rhetorical endorsement[147]. Such expressions of dedication are entirely valid in the 'real', but appeal to different political motivations than the rationalised intuitions on which liberalism relies, and lie outside liberal frameworks of correlative rights and obligations. Such potential motivations include: the *emotive* pull of personal connections, mutual empathy, or shared perspectives; *aesthetic* concerns of decency and uprightness, solidarity through conformity, or leader-follower relations; and *praxis* considerations like passing convenience, expeditious achievement of goals, winning through alliance/association, or securing status-advantage. Once the eligible list is expanded beyond consent, it becomes apparent that forms of commitment abound within the 'real', and that current political trends actually favour *increased* recourse to demonstrative acts of commitment: e.g., the evolution of oaths of allegiance into oaths of citizenship; the requirement of personal details, registration accounts, and 'terms and conditions'-type checkboxes for group membership sign-up; and the social-network terminology of 'requests', 'acceptance', and 'permission'. Each entails submission to some form of authority, some more 'traditionally' political than others: *objects* of legitimacy and support, and the *ways* they are secured, vary strongly in formality and institutionalisation, but share a core, mutually-recognised 'instance of commitment' to which parties involved can subsequently refer. In other words, structures which agents commit to can differ in

[147] Freeden, 'Languages of political support', pp.185ff, 193-96.

permanence/transience, complexity, and systematisation, while agents' actual commitment can vary in scope, stringency, and 'involvedness'—which becomes significant for my discussion of the role of agents below.

3. *The ethos of continued engagement*

The second part of my account of political support, and its clearest point of divergence from consent theory, is the argument that acts of dedication—however generously-defined—are not enough on their own to guarantee support and obedience. By themselves, such acts only show that an agent who feels they ought to, and therefore decides to, obey and support a structure *at a given point* is sufficiently convinced of this view *at that point* to be willing to proffer public indication of the strength of their conviction *at that point*, limited through perspectival constraints to the *foreseeable future*. Such acts cannot, however, bind agents to support a structure *indefinitely*, or *no matter what*. *Preventing* agents from changing their behaviour, or attitude, towards an authority-manifestation if it fails to adequately take into account their minimal retained agency undoes all the work of the legitimating engagement by sliding abruptly towards oppression. As a result, no commitment-act, however stringent, is entirely self-reinforcing, or self-perpetuating. Though there is no obvious independent criterion to judge *how long* such affirmation of support and obedience 'lasts' before agents' and structures' circumstances cause sufficient tension to critically damage their commitment-relationship, the implication is that any such relationship is potentially finite. This suggests that one-shot mechanisms of commitment or dedication, though useful for *initially* squaring the demands of subjectivity and retained agency with structures' requirement for stability to encourage progress, cannot satisfy these demands *permanently*. Strengthening the 'bindingness' of political dedication to rule out 'commitment decay' erodes the primacy of individual agency over the decision of whether to obey or not; but retaining an 'agency veto' removes the certainty that structures' authority-*enactments* will have the requisite intertemporal durability to make them worth pursuing.

The key to resolving this oppression-intertemporality dilemma lies in the characterisation of *legitimacy-as-persuasiveness* as a perpetually ongoing process of engagement that reaches at most temporary 'nodes of closure' (see III.7). Structures need a way to maintain agents' agreement with their legitimation story, sustain their conviction that supporting the structure is the 'right' decision, and retain the quasi-favourable attitude towards the structure (i.e. indifference, enthusiasm, &c) that

motivated this decision. In other words, authority-structures need to keep agents *feeling that, on balance, supporting and obeying the structure wins out over not doing so* by the agents' own subjective lights. A structure's most effective ploy would thus be to involve agents as far as possible in the *process of governance*—i.e., the structure's exercise of authority after agents' initial dedication—to *strengthen the agent-structure relationship* beyond one-off engagement. Specifically, a structure intending to sustain a supportive motivation in agents must keep alive the *option* for agents who (for whatever reason) reach a point of crisis or disagreement vis-à-vis the structure to resolve this through re-engagement with the structure rather than *Machtpolitik*—i.e., by revisiting the legitimation story, agents' decision to offer the structure *de facto* support, and their public commitment. Structures cannot *coerce* agents into such re-engagement: rather, it is a possible 'way out' of political breakdown which structures must allow agents to participate in if they choose—a choice with similar motivations to those that prompted agents' initial commitment. Given such irreducible agential prerogative, I term this 'relational option' the *ethos of engagement: harnessing the productive potential of dynamic engagement past the point of dedication, after legitimacy has already been 'achieved', offers a mechanism to avert 'commitment decay'*. Of course, this extension of political support cannot meaningfully *guarantee* that agent-structure relationships will *never* break down somewhere along the line. It merely offers a way, given the specific form of legitimacy-as-persuasiveness, for breakdown to be *staved off* in the interests of political progress and social development.

This account of how agents' support is maintained reinforces the *personalist* element of agent-structure relationships. The ethos of engagement strongly favours the agency and cognitive independence of individual agents, and is sensitive to the significance of contextual variation. Authority-structures cannot rely on the legitimation story's one-off appeal, but must proactively continue to 'sell' the authority-arrangements to each member of their audience—using mechanisms similar to community engagement, public consultation, focus groups, e-petitions, and referendums, which appear to be gaining popularity in 'real politics' at the moment. The scope of individual moments of engagement is specific and constrained, leaving accounts that treat single instances of legitimation as the *sole* prerequisites of perpetuated support incomplete. Even without 'commitment decay' or unpredictable contextual development, my account acknowledges that the possible remit of what can be 'settled' by engagement in any *single* instance is contingently limited by agents' cognition, and the referents of the structure's 'pitch'. No agent-structure agreement

can cover *all* subsequent developments, as not all aspects of the 'real' are under agents' or structures' control—hence my recommendation of *continuous* engagement after a 'node of closure' is reached. The only method that treats instantiations and enactments of authority as discrete political phenomena involves calling on agents' minimal retained agency by *reiterating* and *reinforcing* the personalism of their connection (insofar as it exists) with the structure every time this connection requires it.

4. *Legitimanda* II: *the role of agents*

So far, I have assessed structures' role in fostering the ethos of engagement to maintain agents' support—but as yet, this leaves the reciprocal role of agents underdefined. *What exactly agents do* to support or obey a structure depends on the particular contingencies of each situation, stipulated within the legitimation story which the agent has accepted, or worked out heuristically through subsequent engagement. Before going into further detail, however, I return to my discussion of political *legitimanda* (from III.1). Since one-shot acts of dedication *calling into existence* authority-structures *in general* are insufficient grounds for support, it becomes necessary to examine the authority-*enactments* that are (in part) the concern of engagement post-dedication. To an extent, if agents choose to support the *instantiation* of an authority-structure, they are likely to also support the 'gist' of the subsequent *manifestations* of its authority—it would be slightly odd for agents to commit to obeying *a structure's authority* but then refuse to obey *any* of the coercive strictures by which such authority is wielded. The split mirrors the divisions within authority between *principle* and *practice*: the *existence* of an authority-structure vs *what* authority the structure is granted; and the *types* of authority-enactments which the structure performs vs the *specific details* of each separate enactment.

A full account of political support must avoid lapsing into the 'doubly exclusionary treatment' of agents by not simply *assuming* that commitment to the *principle* entails commitment to the *practice* (see III.1). Practical *manifestations* of political authority require a discrete process of legitimation, agreement, dedication, and support that is *contingent on*, but not *prejudicially determined by*, the performance of this process for the authority's *instantiation*. In other words, the route from anarchy to policy-decision has multiple incremental stages, where each authority-enactment depends on a complex network of previous 'settlednesses'—systemically/temporally prior enactments, and the underlying instantiation. The engagement underpinning both

legitimacy and support is, in this sense, *perpetual*: at every stage, outcomes are determined by the framing conditions of 'precedent' *and* political reasoning *in medias res*, with the irrevocable primacy of the latter posing a constant challenge to the finality and 'settledness' of the former. That every aspect of a structure's authority thus requires a process of consultation and agreement is undoubtedly a stringent approach towards coercion and obedience, hugely favouring the agency of the *agent* over that of the *structure*. *In extremis*, it could lead to such protracted negotiations that the 'node of closure' required for a decision to be taken, and for consultation to move onto the next locus of concern, is never attained. This is not an idle supposition: discursive deadlock and governmental 'shutdown' is hardly unusual in practice, and decisions are all too frequently 'kicked into the long grass', or abandoned altogether. But the rationale for this approach becomes clearer with reiterated emphasis on the sheer *power imbalance* that instantiation of authority *creates* between structures and agents, which *by construction* favours structures' capacity to act over agents' minimal retained agency. If agents' subjectivity is to be meaningfully accommodated, *given* the division of principle and practice into *stages of agreement*, the case for *continued engagement* between agents and structures becomes too strong to ignore.

The possible forms of support which agents can give a structure at the different stages of agreement—and which an account must be able to theorise—can vary significantly in substance and stringency. Supportive permutations of the agent-structure relationship range from transient and indifferent to durable and enthusiastic: agential *compliance* with coercive strictures (relatively passive, neutral), *facilitation* of their successful enactment (more active, neutral-to-positive), *advocacy* of policy (active, positive), *participation* in policy-implementation (proactive, endorsement), &c. The substantive terms of the 'original' legitimation story—the one *instantiating* the authority-structure—and the form of support that agents give at prior 'nodes of closure' are the first 'points of reference' for how agents relate to later enactments. However, it is not inevitable that agents who agree (in whatever form) with the stages leading up to particular 'node of closure' will necessarily support a *subsequent* enactment, even if it flows from principles explicitly expressed in a legitimation story they agree with. Agents' views may change, as may the context, or the *mode of enactment* might cast doubt on a particular policy. Moreover, such *incrementalism* gives no *general* indication for how agents might offer support and obedience to a structure to which they have publicly dedicated themselves, and whose behaviour fits the ethos of engagement. For such a criterion, the *ethos*-aspect of

structures' engagement with agents offers a more promising foundation: just as the practical meaning of 'engagement' is thoroughly contingent, so an account of agents' commitment must address the particularism and contextualised uniqueness of the authority-enactments with which they are confronted.

The most appropriate theorisation of the possible forms of support thus becomes an *ethos of support*, quasi-reciprocal to the *ethos of engagement*: *on agents' part, a willingness to countenance, and favourable attitude towards, the existence and actions of some form of authority-structure, cultivated and maintained by mechanisms of persuasion, and manifested through acts of dedication.* Given the focus on subjectivity, the ethos of support must be fostered *in agents individually*, since structures cannot simply rely on the emergence of a collective *governmentality* in the *body* of agents *as a whole*. The mechanisms that persuade an agent of particular arrangements' legitimacy must be the same that strive to maintain *their* interest in continuing to support the arrangements *ex post*. The reasoning behind the quasi-reciprocity of the two *ethea* assumes that agents are *more likely* to consider positively a structure which takes their agency into account than one which does not. It relies not on any *inherent* value of agency—to agents themselves, or independently—but on its *instrumental* importance: by engaging with agents instead of merely dominating them, structures are directly drawn into addressing and mitigating the problems agents have with exigencies in the 'real'. As a result, an *engaging* structure that listens to its *coercendi* will be better able to tailor itself to their subjective needs, and target its attempts to meet their concerns, than a *dominating* structure that just coerces them—with a 'programme' that is more likely to meet with their subjective agreement, and enjoy their continued support.

5. *Secession potential*

A further consideration in my 'reconstruction' of political support, which has received little interest since the early contributions to the liberal 'political obligation' canon, is the *dissolution*, or *breakdown*, of agent-structure relationships of engagement, obedience, and support[148]. This may even be a more pressing topic than the *creation* of such relationships, as contemporary and historical politics is littered with instances of grievance, unrest, and the collapse of political infrastructure—where political authority has been disregarded, undermined, or thrown off entirely, through noncompliance, civil disobedience, and revolution. Despite plentiful evidence for such

[148] Hobbes, *Leviathan*, §§XVIII.4, XXI.22-25, XXVIII; John Locke, *Second Treatise of Government,* C.B.Macpherson (ed.) (Indianapolis, IN: Hackett Publishing Co., 1980 [1690]), §§131-40, 158, 199, 215-19.

breakdown—which my account theorises via 'commitment decay', the emphasis on the importance of 'real' exigencies to the evolution of agent-structure relationships, and an undercurrent of contingent fragility—the liberal account of these situations is oddly underdetermined. Liberal legitimacy-as-'is' accounts tend to argue that agents' 'political obligations' to authority-structures are lifted iff the structures lose legitimacy in a liberal sense—i.e., if they become undemocratic, stop seeking agents' consent, stop respecting human rights, act unjustly, &c[149].

However, this condition is simultaneously stringent, and remarkably vague. First, it implies that *any* deviation from liberal legitimacy criteria absolves agents of their obligations—but does not specify *who decides* whether a deviation has *actually taken place*, and whether it is *sufficiently aberrant to justify disobedience*. Second, this *liberal condition of illegitimacy* conflicts with the *liberal bases for obligation*: liberalism cannot determine whether agents' commitments of gratitude, fair play, justice, association, or consent *outweigh*, or *are outweighed by*, the effects of changes to structures' (liberal) legitimacy—i.e., whether agents might be bound to obey structures that are 'flawed' by liberal lights. Third, the condition assumes that liberal criteria come in fixed, internally consistent 'packages'—which offers no guidance for situations where arrangements become 'less liberal' in one regard (e.g. curbing human rights) yet 'more liberal' in another (e.g. democratising reforms), where a trade-off arises *between* conditions, or where no available choices meet all the conditions required for full liberal legitimacy. This superficial essentialism raises the suspicion that the familiar spectre of *Machtpolitik* would be invoked to resolve conflict between disgruntled agents and (allegedly) capricious structures—inevitably favouring structures' superior position in the power imbalance. Liberal 'political obligation' theories thus risk disempowering agents vis-à-vis the structures that coerce them, simply by being unclear about possible significant 'limit cases' in agent-structure relationships.

A successful account of political support must therefore theorise what I term *secession potential*: the authority-arrangements it seeks to explain must accommodate a clear option for agents to *reverse or nullify any commitment made, or act of dedication performed, towards an authority-structure*. In other words: structures cannot bootstrap their own perpetual duration, nor deny agents' ability to 'opt out' of such arrangements if they choose. In part, this simply reflects political reality: agents frequently stop supporting, or obeying, coercive authority-instantiations, and their

[149] cf. Kimberley Brownlee, 'Civil Disobedience', *Stanford Encyclopedia of Philosophy* (2009), §§2-2.2; Dagger, 'Political Obligation', §§2.1-3; Gilbert, p.293.

insubordination is often seen (contemporaneously or subsequently) as 'legitimate', 'good', or 'right'—e.g., the American War of Independence, the efforts of Gandhi and Bhagat Singh for Indian independence, the civil rights campaigns of Martin Luther King and Malcolm X, the Troubles in Northern Ireland, or the actions of Solidarność in communist Poland[150]. Obviously, such judgments can only ever be subjective—yet therein lies the crux of my deeper argument for the need to theorise secession. Since structures cannot class disobedience as *objectively* 'wrong', they cannot—while still subscribing to the 'legitimation route', and the ethos of engagement—put obstacles in the way of agents' moves towards secession. Using mechanisms like consent or gratitude—or even an extant act of dedication—as a reason to block agents' choice in this way infringes agents' minimal retained agency, and undermines the whole purpose of embarking on elaborate processes of engagement, instead of simply relying on brute power imbalances to dominate. More broadly, secession potential queries whether structures can ever justifiably *expect* agents to support and obey them, given the recognition that agents' subjective choice is needed to even complete the move from legitimation to support. Agents can never quite 'give away' their *capacity* to disobey—even voluntarily—since the minimal retained agency that gives them the tools to resist (however limited) stems from their physical and cognitive *individuality*. Structures, in turn, cannot *eradicate* the possibility that agents *might* disobey them—and are thus never fully 'secure' in their position of coercive authority over them. Accounts of legitimacy and support therefore *need* a way of dealing with disobedience and secession that does not merely default to *Machtpolitik*, in order to approach a complete theorisation of agent-structure relationships.

A potential objection is that secession potential goes 'too far' in empowering agents vis-à-vis authority-structures—specifically, that it encourages in agents a degree of fickleness or intransigence that makes them unreliable parties to a relationship of obedience and support. The concern is that secession potential's emphasis on minimal retained agency gives agents so much leeway to 'mess structures around' that structures cannot be expected to instigate meaningful social progress under these conditions. More sharply, my focus on subjective agreement as the *confirmans* of legitimacy, and basis of support, carries the perhaps uncomfortable implication that *agents are never wrong in their relationship with structures*. Whenever a structure attempts to manifest its authority in a way with which an agent disagrees, this enactment *automatically* loses its legitimacy in that agent's eyes—and, *in extremis*, the agent may

[150] cf. Honig and Stears, p.203.

also consequently call into question the legitimacy of the structure's *instantiation*. My account thus implies that *agents never have to obey something they do not like*—which advocates of 'strong government', or transcendental moral criteria, would decry as damaging permissiveness towards unconstrained agential licence, and a travesty of the *purpose* of coercing-obeying relationships. In response, I emphasise that *disagreement-as-delegitimation* is both realistic, and less threatening than this objection suggests. Vernacularly, policies that meet with widespread disapproval are deemed less legitimate than popular ones, regardless of the 'higher' norms they derive from. Moreover, given the divide between instantiations and enactments of authority, I do not accept that a single policy failure poses an insurmountable obstacle to the continuation of a regime, or the achievement of social progress. Disagreement is merely a signal for re-engagement *on a specific case*, and *at most* renegotiation of the terms of dedication—but there is no necessary slide from disobedience *in a select instance* to a wider inclination towards *wholesale systemic overthrow*.

Concerns about agential 'licence' stem chiefly from the *unfamiliar atypicality* of my particular treatment of subjectivity. It may be *unsettling* to see questions of 'right/wrong' and 'good/bad' reduced to mere agential perspective—especially in cases that stretch the limits of tolerance by toying with sensations of horror and disgust—but this does not make ethical judgments couched in these terms any less valid, or relevant, for those that voice them. If anything, precisely this *metaethical* move is required to erode political structures' deceptive, insidious, and self-serving moral hegemony. Secession potential reduces structures' ability to manipulate societal morality to give themselves a status of permanent ethical advantage. It halts the normative 'creep' of *raison d'état*, whereby structures cast themselves not only as *arbiters* and *guarantors* of the 'good' and the 'right', but also as essentially 'good' or 'right' *qua se*. By retaining moral determination at the level of individual agency, my account mitigates the power transfer from agents to structures entailed by the instantiation of authority—with secession potential as one political tool to reinforce this arrangement in practice. Bluntly, secession potential *is the price a structure pays for going down the route of legitimation rather than domination*. It is the necessary consequence of including in an account of legitimacy and support a meaningful consideration of agents' subjectivity and minimal retained agency—without which coercive projects become mere concoctions of elite ideation and oppression, with individual agency subordinated to structures' superior capacity for *Machtpolitik*. The potential for structures to revert to the 'domination route' never disappears, which

only emphasises the fragility and complexity of projects to legitimate political authority—and the need for mechanisms such as secession potential to give them practical 'bite'.

6. *Political praxis* II

Finally, I assess how my conception of political support addresses questions of political praxis from the perspective of agents and structures. For agents, the immediate tactical appeal of supporting a successfully established and legitimated authority-structure lies in its ability to resolve the concern that motivated their decision to explore the *idea* of creating a political structure *at all*. Agents are unlikely to consider abrogating agency to a separate entity unless faced by an exigency which needs more than just individual action to resolve, implying that legitimatory and supportive engagement will be coloured by responses to this concern. The strategic extension would be agents' calculation—dependent on the success/failure of this short-term resolution—of the capacity of systematic, collective interaction to stave off exigencies more effectively than pure anarchy. Should the initial instantiation prove successful, the appeal of structured coercion to deal with future exigencies will grow, giving agents reason to incline towards the incremental emergence of a purposively complex authority-structure. The structure's preparedness to engage may motivate agents' supportive reciprocation—whether from a sense of obligation, or some aesthetic/emotive pull towards benevolence, decency, or solidarity. However, from a praxis perspective, such factors are too abstruse: it is agents' *awareness of the power imbalance* created by a structure's instantiation that drives their *preference for cooperation over conflict* as long as the structure is 'being nice' to them via the ethos of engagement. Agents' concern—excepting convictions held so strongly that disagreements could only be resolved by the structure's concession or a resort to *Machtpolitik*—would be that refusing to support a structure offering *engagement* with their views might lead to its replacement by, or conversion into, a structure solely interested in *domination*. Agents might therefore support a structure in the hope that it acquires a positive view of the productive potential of engagement, and to reduce the likelihood of the structure 'turning nasty' and defaulting to oppression, as they are all too aware that a conflict of *Machtpolitik* with the concentrated resources of such a structure is a confrontation they would probably lose.

From structures' perspective, praxis considerations are approximately inverse to those of agents. First, the ethos of engagement lets structures self-perpetuate with

little expenditure of political resources. A steady 'run' of social progress is easier to achieve if agents are 'onside'—positively-disposed towards authority-enactments, or at least not obstructing them—than if structures must expend time and effort defeating hostile objectors. If it relies on domination, an emergent authority-structure risks provoking agents' resistance before it is sufficiently stable, or controls enough political resources, to prevent its own dissolution, a return to an 'authority vacuum', and a reduced likelihood that authority-projects are attempted in future. The result of engagement and decision-making is a series of 'precedents' to later authority-enactments—in the vein of a *cultural* or *habitual* context (see II.3)—that form a *buffer of complexity and tradition* between the structure's instantiation and agents' initial dedication, and the political *status quo*. Structures could claim that this buffer superficially strengthens their binding connection to agents. By portraying 'collapse' of the growing system, and reversion to anarchy, as 'more effort than it is worth', structures might frame dissatisfied agents' choice, 'nudging' them into resolving their disagreements through discursive engagement, not disobedience/resistance. Similarly, much as agents might support a structure to demonstrate the benefits of *engagement*, structures might seek to engage agents to acquaint them with the advantages of *being supportive*, encouraging agents to associate *engagement* with *progress*, and treating both as 'support-worthy'. Lastly, structures' inability—even with skilful salesmanship or successful nudging devices—to completely 'overwrite' agents' subjective agency and eliminate the chance of deadlock, discursive breakdown, and recourse to *Machtpolitik*, suggests that a short-term policy of engagement could bear significant long-term fruits. With 'taking into account agents' perspectives' as the default political attitude, structures can accumulate 'political capital' by creating a 'history', or tradition, of positive interaction with agents. Thus, if engagement fails to find a way out of a given policy impasse, structures can rely on a reserve of agential 'goodwill' that will 'soften the blow' of shifting from legitimation to oppression *in that instance*—and avert more radical disintegration of the fundamental terms on which the structure's authority is founded.

Conclusion

My account of legitimacy and political support holds that *an authority-structure is legitimate only insofar as each agent it aims to coerce finds the legitimation story it offers as justification for doing so individually persuasive*; that *agents retain the choice over whether to agree with, and obey, an authority-structure, publicising this choice through an act of dedication*; and that *the maintenance of dedication in the form of political support requires continued personalist engagement between structure and agent*. In developing this account, I criticise several methodological assumptions of liberal treatments of 'political obligation'. (1) I reject the liberal approach of either suppressing or ignoring agents' extreme perspectival differences as a poor theorisation of the political 'real': instead, I argue that theories of legitimacy can only achieve *ecumenical appeal* by taking the *relational subjectivity* of agents' views into account. (2) I attribute this shortcoming to the *static*, essentialist conception of legitimacy on which liberal theories rely: by contrast, I suggest that a *dynamic*, procedural conception better incorporates agents' *minimal retained agency*, and problematise liberalism's porous distinction between legitimacy and a narrow 'obligation' interpretation of political support. (3) I hold that legitimacy cannot *just* be assessed by *ethical* criteria of 'goodness' or 'rightness', as these deconstruct to pre-rational aesthetic and emotive motivations: I advocate additional criteria of political praxis, to reflect the *uniquely political* nature of legitimation. I carefully navigate between the contrary pulls of *deliberation* and *decision*, and suggest that legitimacy and support require considerably greater *cession of decisional agency from structures to agents* than liberal accounts acknowledge. Overall, I believe that my account adopts a more nuanced, detailed, and honest interpretation of agents' conflictual, *Machtpolitik*-driven participation in the political 'game' than liberal presumptions of pre-discursive consensus on values, virtues, and norms.

Of course, there is an indelible gap between theory and the 'real'. Discrepancies may always arise between the 'model' of legitimacy and political support I have outlined, and the 'flawed' way in which political authority is actually instantiated and enacted. Inevitably, there will be instances where structures override individuals' agency, where processes of engagement stall and break down, where uncertainty and miscommunication obscure political relationships, and where agents disagree so radically that my discursive approach loses practical traction. As a realist, I take all this to be self-evident: the 'real' does not brook exhaustive theorisation, and retains a remarkable ability to thwart theorists' attempts to crowbar it into conformity with

the accounts they build up around it. So it is not surprising that few political structures conduct their relationships with the agents in their purview such that *every* decision is *completely legitimate, and unanimously supported*. Structures pick carefully the moments when they engage agents to mobilise their support for authority-enactments—through referendums, snap elections, &c—and those when they simply rely on their favourable position in the institutionalised power imbalance to push decisions through. Just as with the legitimation and domination 'routes', the choice between 'deliberativism' and 'decisionism'—i.e., whether or not to bring *cloture* to ideational wrangling in order to 'get something done'—remains precisely that: a choice. Which approach is taken depends on whether the relevant power-holders believe that 'progress' in a given instance constitutes further haggling over substantive details, or the termination of protracted discussion in favour of realising what has been determined—and the particularistic, contingent balance of reasons underpinning their belief.

In this light, my project is one of *uncovering and exploring* the *potentialities* for political action on those occasions when political structures with power and authority *opt for engagement* with 'their' agents, rather than *coercion simpliciter*. It is not an *enjoinder* to do so—structures and agents must take that decision themselves—though it provides a rationale for the importance of accounting for the radical pluralism of agents' perspectives. Rather, it aims to widen the gaze of legitimacy and support discourse, highlighting the diversity of vernacular views on agent-structure relations, and the complex political processes required to avoid lapsing into governance by naked *Machtpolitik*. By avoiding simplistic idealist stipulations of certain forms of authority as 'good' or 'right', and *all other forms* as 'bad' or 'wrong', it elucidates legitimatory and supportive processes in a way that has ecumenical appeal across more agents and contexts than its liberal alternatives. Ultimately, any theory of legitimacy and support implicitly aspires to finding an account of political authority that reconciles the diverse perspectives in the 'real' to a situation where political violence is conclusively averted. The brutal exigencies and stochastic contingencies of the 'real', however, render such a perfect solution unfeasibly remote—and claims to have found one fanciful and disingenuous—but do not remove the *ameliorative effect* of *having* such an aspiration. This, then, is my project's deepest aim: to improve on the limitations and deficiencies of the theoretical *status quo*, and enable agents to better satisfy their subjective claims on the political 'real' of which they are a part.

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