What is Authority?

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Repository Citation
Nowell-Smith, Patrick (1976) "What is Authority?," Philosophic Exchange: Vol. 7 : No. 1 , Article 6.
Available at: https://digitalcommons.brockport.edu/phil_ex/vol7/iss1/6

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WHAT IS AUTHORITY?

by

Patrick Nowell-Smith

I

There are two reasons why the concept of authority has been found puzzling by philosophers, jurists, and political theorists, of which the first is this. The gunman points his gun at my breast and orders me to hand over my wallet; the tax collector or some other government official orders me to pay so many dollars as a tax or as a fine. What is the difference between these two situations? We are all—at least in our non-philosophical moments—convinced that there is a difference, and a massive one. It is when we try to say just what the difference is that we begin to falter.

One thing these two situations have in common. Like the gunman, the State is coercive; if I don't obey the orders of its officials I am in for trouble. One obvious difference lies in the fact that, while the power of the gunman over me is local and temporary, lasting only so long as he wields the gun, the power of the State is pervasive and enduring. But is that all? Is the State merely the gunman writ large? Some writers, for example Hobbes and John Austin, have thought that it was, and it is not difficult to think of cases for which this account of authority as the exercise of naked power on a large scale seems appropriate. For example, in the seventeenth century there was a district in London called Alsatia, ruled by a gang of cutthroats and thieves, into which peaceful citizens and even the officers of the State hardly dared enter, and this has been true of some parts of American cities of our own day. From the point of view of the Jewish community the 'authorities' of the Third Reich were exercising naked power and nothing else. But even in such cases this identification of authority with naked power will not do; for as soon as we pass from the solitary gunman to the gang, we are faced with the fact that the boss of the gang must sometimes take time off for sleep. As Hume shrewdly pointed out, 'The Sultan of Egypt or the Emperor of Rome might drive his harmless subjects like brute beasts... but he must at least have led his mamelukes or pretorian bands like men by their opinions.'(1) It may have been by naked power that Hitler cowed many of the Jews into compliance with his will, but it cannot have been by naked power that he controlled the S.S. He controlled them because they accepted his authority, recognized his right to give them orders.

Robert Paul Wolff, whose excellent little book I shall use as a stalking horse, defines authority as "the right to command and, correlatively, the right to be obeyed. It must be distinguished from power which is the ability to compel compliance, either through the use or the threat of force."(2) This way of distinguishing authority from power is familiar enough; but it doesn't get us very far since, if the concept of authority is a puzzling one, so too is that of a right to command and a right to be obeyed. What is it to have a right? And what could give anyone a right to give me orders with a corresponding duty on my part to obey them? Defining 'authority' in this way gives rise to the second of the two sources of puzzlement—the so-called Paradoxes of Authority.

The paradoxes run as follows: First, to submit to authority is to obey the com-
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mands of someone who has authority, and to obey is not just to comply with those commands, to do what he tells you to do. It is to do what he tells you to do because you recognize his right to tell you what to do; it is the fact that it is he, rather than some non-authoritative person, who tells you what to do that constitutes your reason for doing what he tells you. But now, it is argued, such obedience to authority can never be rational and can never be moral. It can never be rational because it is never rational to act against one's own best interests, and the authority might command you to do just that; and it cannot be moral since to submit to authority is to place decision-making in the hands of another and thus to forfeit one's own moral autonomy; and to do that, it is said, can never be morally right. "For the autonomous man", writes Wolff, "there is no such thing, strictly speaking, as a command."(3)

No one, as far as I know, has given an analysis of authority which is adequate in the sense of successfully capturing the difference between the gunman and the tax man and at the same time successfully resolving the paradoxes. Wolff set out to do precisely that, but in the course of trying to explain what authority is and why it is sometimes rational and moral to submit to it, he came to the conclusion that the task is impossible. So his book, which started out as a justification of political obligation, ended as a defence of anarchism. Today, instead of trying to solve the problem that so many theorists have failed to solve, I shall try to show why they have failed, and this means raising what are essentially methodological issues. I shall talk, that is to say, not about authority, but about how to tackle problems about authority and, indeed, many other problems in political philosophy. I am sure this will elicit groans—more philosophical hair-splitting and nit-picking! Why not get on with the job of saying what authority is and why we should sometimes submit to it? My reply is simple. Those who have tackled the real problems have failed because they have used inadequate tools, and I do not intend to swell their ranks.

II

My overall complaint against the writers, classical and modern, who have tackled these problems is that they over-simplify to a disastrous extent. They offer analyses of the central concepts such as 'right', 'obligation', 'duty' and 'authority' itself which fail to do justice to the complexity and subtlety of these concepts as we actually use them, and the complexities and subtleties are not mere superficial nuances but fundamental to the use of the concepts. This shows up first in the tendency to be spell-bound by dichotomies. The contrast between the policeman and the gunman presupposes that we can draw a sharp distinction between the right of the former and the mere power of the latter. But is the distinction really all that sharp? Perhaps we can find examples of naked power and perhaps, in spite of Wolff, we shall be able to find examples of genuine authority; but the world of politics lies almost wholly in the gray area in between. I have already referred to parts of American cities effectively controlled by criminal gangs; but what of whole cities controlled, often for long periods, by political bosses who, though they occupy positions such as that of mayor which gives some color of right to their regimes, are only able to acquire and retain control by the exercise or the threat of force? Given what we now know about the ways in which ex-President Nixon acquired and retained the Presidency, we clearly could not take him as a paradigm case of someone who exercised legitimate authority. But, what is more to the point, we could not take any American president as paradigmatic, knowing as we do that they have all depended, to a greater or lesser extent, on political machines which, in turn, make use of meth-
ods which, in terms of Wolff's sharp distinction, must be classified as the use or threat of force. To this Wolff might reply that a successful justification of political obligation by no means requires the existence of any State governed by legitimate authority; he was concerned to delineate what, if it existed, would be a State to whose authority the rational autonomous man could submit. Why did he come to the conclusion that that task was impossible? Because, I submit, his accounts of authority and of autonomy are so set up that it is transparent and hardly in need of argument that the two cannot be combined. (4) So be it; but the conclusion I would draw is not Wolff's defence of anarchism, but that something is wrong with his accounts of authority and autonomy.

In the same way, the paradoxes depend for their plausibility and even for their formulation on the possibility of drawing a sharp distinction between obeying a command, which involves submission to authority, and mere compliance for some other reason with someone's advice, request, or threat. Wolff illustrates his point that for the autonomous man there is no such thing as a command by the example of the sinking ship. The captain orders everyone to the life-boats and I go along with the rest. Am I obeying his order, which involves submitting to his authority and thus forfeiting my autonomy, or do I merely accept his advice—doing what he tells me to do because it seems to me the best thing to do in my own judgement on the merits of the case? Of course, one factor in the situation which makes it reasonable for me to do what the captain says is that other, non-autonomous people are obeying his order, and if I buck the trend I am likely to do more harm than good; but that is the only difference made by the fact that it is the captain rather than a mere passenger who is telling everybody what to do. Taking that feature of the situation into account I am still, according to Wolff, doing what I think best on the merits of the case. "I would make the same decision, for exactly the same reasons, if one of the passengers had started to issue orders and had, in the confusion, come to be obeyed." (5)

Even if Wolff is right in saying that it makes no difference whether it is the captain or a mere passenger who is telling everyone to go to the life-boats—and I shall argue later that he is not—his distinction between authority and naked power is too sharp. It cannot cope with borderline cases. Suppose that while the ship is sinking the captain and crew are all drunk or in a panic and that a mere passenger takes, as we say, command. His posture, manner, coolness in a crisis, and commanding tone—perhaps he is a recently retired colonel—all these contribute massively to the end result, that the passengers do what he tells them to do. Is he, in terms of Wolff's dichotomy, exercising authority or compelling compliance by the use or the threat of force? Neither answer is appropriate. He is not in a position to use or to threaten force; the threat lies in the situation itself, and if he says "Do as I say or you will all drown" he is not threatening to kill them but predicting their death. But is he exercising authority? If so he must, according to Wolff, have a right to issue those crisp commands. Or are his words to be taken as a request, plea, or piece of advice? That too would mischaracterize the situation; for if he had said in a quiet and humble tone "Please do as I say; I think you will find on reflection that it is the only way to save your skins," the other passengers would probably not have followed his lead. The concept of authority is tailor-made to fit this sort of situation. Though he is not a person 'in authority' in any formal sense, the other passengers treat his instructions as authoritative, as if they were the commands of an authority—that is to say they do not think the matter through and make their own judgement on the merits of the case. Whether, in so doing, they forfeit their autonomy and, if so, culpably, are questions for which we are not yet ready. The point now is that his influ-
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ence over them is of too subtle a kind to be captured either by the dichotomy between authority (defined as a right to command) and naked power or by that between commanding and advising.

III

My next two points go together since they are both criticisms of the classical approach to the analysis of concepts that runs from Aristotle to Russell and is still widely practiced. This analysis is linear in the sense that it consists in explicating a puzzling concept by defining it in terms of other concepts and defining those in turn until we reach a set of concepts that are so clear as to need no further explanation. I have no doubt that this method is enlightening in some areas—for example, as used by Russell in the philosophy of logic and mathematics; but in other areas it is apt to be more misleading than helpful. The basic concepts of political philosophy are rights, duties, obligation, authority and obedience—and perhaps some others. Now I do not doubt that we can give rough accounts of some of these concepts in terms of the others or that we can do this in different ways, the choice between which is arbitrary. But this technique of linear analysis is bound to end in a dilemma: either we shall be left with at least one undefined concept in the group or we shall have to define all the concepts in the group in terms of concepts lying outside it, as Russell and Whitehead did when they defined the concepts of mathematics in terms of those of logic. But if we adopt the first course we are liable to find that, however efficiently we can trace the connections between concepts in the group, a grasp of the system as a whole eludes us. We can, for example, define ‘authority’ as Wolff does in terms of ‘right’ and ‘command’, but since these concepts are just as puzzling as that of authority we haven’t advanced very far. On the other hand, if we adopt the second course we are in danger of ‘reducing’ the entire vocabulary of politics to something which it clearly is not.

Examples of the latter error are not far to seek. In the end Hobbes has to define ‘right’ in terms of the sheer power of God who, he says, “by right, that is by absolute power, commandeth all things.” Here Hobbes frankly equates Right with Might, at least in the case of God, and he is followed by John Austin who even at the secular level defined political obligation in terms of the sheer power of a sovereign who is able and willing to enforce his commands. The motive for attempting to reduce complex and puzzling notions to (apparently) simpler and more transparent ones is clear. All of us some of the time and some of us all the time feel a need to descend from nebulous and obscure complexities and abstractions to the firm ground of hard, observable fact. Nevertheless (and to repeat,) such attempts to reduce concepts that puzzle us to concepts that do not often leave us with an uneasy feeling that something, if not everything, has been thrown away in the course of the reduction.

In place of the method of linear analysis I would suggest the following method derived from Professor H.L.A. Hart. Since all these puzzling concepts hang together, we should first describe in some detail a standard or central case to which they clearly apply. At this stage we should leave aside doubtful, off-beat, and bizarre examples and above all leave aside all questions about ultimate justification. The questions that we eventually want to answer are Wolff’s questions, ‘Can authority ever be legitimate?’ and ‘Can a rational autonomous man ever submit to authority?’; but the time to raise these is after, not before we have a reasonably clear grasp of what rationality, autonomy, and authority are. So we should start with a clear example of someone who has (at least from an initial commonsense point of view) authority
and contrast it with an equally clear example of someone who does not. In fact most writers do start in this way, as Wolff does when he contrasts the tax collector with the gunman; but the trouble is that, in their eagerness to get on to the really interesting questions, they give far too jejune a description of the standard case and use phrases such as 'forfeiting authority' and 'taking responsibility for one's actions' as if the jejune examples had made them sufficiently clear.

What I am about to say about Wolff's definitions and examples is in one way unfair. 'Autonomy' means literally 'making one's own laws' and according to Kant who, I believe, introduced the word into moral philosophy, an autonomous man is one who acts on laws that he has made for himself. Wolff writes explicitly in the Kantian tradition and, given his account of submitting to authority, it is clear from the start that authority and autonomy are going to clash head-on. Various writers have tried to forestall the fatal collision by claiming that if a State has certain kinds of democratic institutions it can have authority because in it I do—in a way—make my own laws. What Wolff does in the second part of his book is to show that all these maneuvers are specious, and here I think he is entirely successful. My doubts begin further back—with the concepts of authority and autonomy that he employs. For example, it is not entirely clear what it is to forfeit one's autonomy. Presumably this is a voluntary and intentional act; a man whose brain is so damaged in an accident that he is thereafter deprived of the power to think and choose would not be said to have forfeited his autonomy, but someone who chose to get blind drunk, knowing that he would be deprived of those powers, would.\(^{(6)}\)

The crucial case, however, is that of the man who substitutes the judgement and will of another for his own; if I resolve (autonomously) to do whatever \(X\) tells me to do even if it does not seem to me the best thing to do on the merits of the case, have I forfeited my autonomy or not? I have certainly substituted the judgement and will of another for my own; but it could also be argued that in doing what he tells me to do I am acting on the rule 'Do whatever \(X\) says', a rule that I have made myself, so that in Kantian terminology the maxim of my action is still autonomous. Wolff seems to take the former view since, in the example of the doctor, he tells us that "it is obvious that there are at least some situations in which it is reasonable to give up one's autonomy. Indeed, we may wonder whether, in a complex world of technical expertise, it is ever reasonable not to do so.\(^{(7)}\) But now rationality and autonomy seem to have split apart in a way that must be at least embarrassing, if not disastrous for Wolff; and it is difficult to reconcile the view that it is often reasonable to give up one's autonomy, with the very strong words that Wolff uses about men standing "under a continuing obligation to take responsibility for (their actions)"—where taking responsibility for one's actions has previously been equated with autonomy. Are we under a continuing obligation to forfeit, at times, our rationality?

It is a good deal more difficult to characterize a patient's relation to his doctor than Wolff makes out. We speak of 'obeying doctor's orders'; yet, according to standard medical ethics, a patient who does what the doctor tells him to do is only taking advice, not obeying orders. But 'taking advice' doesn't really fit either, since the case is significantly unlike that of a man who consults a wise friend in a difficult situation in which technical expertise is not available. In that sort of case a man who asks the advice of another must take responsibility for the outcome whether he takes the advice or not; whichever he does, he cannot shift the blame, if things go ill, onto the advisor. But where, as in the case of the doctor, expertise is involved, this is not so. If the case concerns well-established medical facts, a patient who did not do what the doctor told him to do would certainly be held responsible for an
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ensuing disaster; but if he did what the doctor told him to do and that turned out to be disastrous, he neither would nor, I submit, should be held to blame. The case comes near to that of the soldier who can shift the blame by saying that he was only obeying a proper order.

In the same passage, Wolff tells us that “there are many forms and degrees of forfeiture of autonomy”; but this suggests, first, that some of them might be compatible with submission to authority and thus destroy his basic contention that for the autonomous man there is no such thing as a command. Secondly it suggests the possibility that to forfeit one’s autonomy might be the right thing to do. Unless the forms and degrees are further analysed and classified we are left in the dark. Then again, Wolff never makes clear the difference between the example of the doctor and that of the captain of a sinking ship. “Authority”, he tells us, “resides in persons; they possess it—if indeed they do at all—by virtue of who they are and not by virtue of what they command.” (8) So if, as Wolff seems to think, a doctor has authority, he has it because he is a doctor; and if so, why should a ship’s captain not have authority because he is the captain of the ship? And if doing what the doctor says involves no forfeiture of rationality and either no forfeiture or non-culpable forfeiture of autonomy, why does this not apply in the case of the captain? Yet Wolff clearly thinks that there is a difference since he thinks that an autonomous man who does what the captain says does not obey the captain but acts on his own judgement. Like Wolff, I also believe that there is a difference, and I shall try to say later what it is. I raise these difficulties now, not because I think he cannot meet them, but because he has not met them in advance. His examples are too thinly described to give us a sure grasp of the key concepts of morality, rationality, autonomy, and authority, and without such a grasp we are in no position to tackle important questions about their relations. My basic objection is the same as Hart’s objection against Austin—that he tries to construct the fabric of the State out of an inadequate set of building blocks. It is as if one were to try to build a medieval cathedral out of standard prefabricated parts. But it takes Hart some fifty pages to show why Austin’s analysis must be inadequate and another fifty to construct a more plausible model. (9) There is no shorter way.

But how could we set about trying to say what authority is? Well, one can come to know what an apple is without knowing that apples are bought, cooked, and eaten. But in the case of an abstract concept such as that of authority this is, I submit, not so. Authority can be granted, refused, claimed, exercised, recognized, denied, challenged, delegated, abused, flouted, aped, and so on. To adopt J.L. Austin’s terminology, all these are speech-acts, things that we do with words; and it is in and by doing them that we participate in a practice with important moral and political consequences. (That is why the study of speech-acts is not the mere fooling around with words that some people think it is.) My claim here is a double one: first that we cannot understand what authority is unless we understand this complex social practice, and secondly that when we do understand it there is no further question as to what authority is. (Whether a rational autonomous man can ever participate in this practice to the extent of recognizing authority is, of course, another matter.)

IV

If we look at the concept of authority in this way as a network of social practices—of what people do and say, and do in and by saying—it seems to be clear that the central speech-acts, which I take to be claiming, recognizing, and refusing to recognize authority, all involve an appeal to a rule under which the various claims and
counter-claims are made. So our first need is to examine the puzzling concept of a rule and of what it means to say that, in a certain society, such and such a rule exists. Here again I shall follow Hart. (10)

To say that in a certain community there is a rule to the effect that one ought to do such and such is to say much more than that the people concerned have a custom or habit of so doing. Suppose that almost all the people in the village go to the movies almost every Saturday night. On that basis alone we can say that they have a custom of so doing; but if a single eccentric never goes to the movies, though we can say that he does not conform to the custom, we cannot say that he has broken a rule. For a rule to exist it is further necessary that he should be criticized for his nonconforming behaviour, required to submit a justification or excuse, and subjected to penalties, even if only of an informal kind, if he cannot do so. Moreover, anyone who participates in such a rule-governed practice applies the rules to himself as well as to others. He will recognize the justice of the claims made on him and of the accusations made against him and he will even, as Plato said, willingly submit to such sanctions as he has, under the rules, incurred.

Such a man adopts, in Hart's terminology, the internal point of view towards the system of rules. He treats the rules as guides for his own conduct and that of others, appeals to them in criticizing others, and admits the validity of such appeals when made by others against him—in short, he uses the rules for these various 'moves' in the 'game' of social intercourse. By contrast to adopt the external point of view is merely to observe and record the fact that those who play the game or participate in the practice have a system of rules towards which they adopt the internal point of view without adopting that point of view oneself. The external point of view is that adopted by an anthropologist studying the rule-system of another society; it is also that of an atheist living in a theocratic society. The rulers of that society tell everyone what they ought to do, basing their commands on what they and their subjects believe to be the commands of God. The atheist might well comply with their rules, either out of fear of the consequences of deviation or because he does not wish to offend people, but he does not obey these commands because, not believing the credentials of the rulers, he does not recognize their right to command him.

All this has an obvious affinity with much that Wolff says about the difference between compliance and obedience, about the difference between the normative and the descriptive concept of authority, about the distinction between de jure and de facto authority. Wolff sees clearly that a sceptic who doubts the possibility of de jure authority can distinguish between de facto authority and naked power. To say that the King of Ruritania has de facto authority is to make an empirical statement incompatible with the statement that he rules by the exercise of naked power since it is, according to Wolff, to say that Ruritanians believe that their king has de jure authority. But if this is any ordinary sort of belief it can be tested for truth or for whatever, in the case of normative utterances, corresponds to truth in the case of descriptions. So, if authority is always authority under some rule, what we have to do is to formulate a fundamental rule or set of rules by reference to which the claim to authority of the King of Ruritania (or the Crown in Parliament or the American Constitution or the Politburo) can be tested for validity. But now the spectre of an infinite regress arises. Under what rule does our new fundamental system of rules have authority? Clearly, if the regress is to be blocked, there can be no such rule; our fundamental set of rules must be genuinely fundamental, such that it requires no foundation. What is needed is a Transcendental Deduction of the Idea of the State—a ground rule of which we can somehow demonstrate, without having any rule a-
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mong our premises, that it must be accepted by all rational men. This is the task that Wolff set himself, and it is because he came to recognize it as hopeless that he had to conclude that there can be no such things as a de jure state or legitimate authority and that, in consequence, for the autonomous man there is no such thing as a command.

But this despair stems, I suggest, from Wolff’s handling of the normative/descriptive and de jure/de facto distinctions as matters of the truth of a belief. He treats the question ‘Does X have de jure authority?’ as if it could be asked and answered from, as it were, a neutral standpoint outside political space, a standpoint that is not that of one of the participants in the practice within which alone the concept of authority has a place. According to Wolff we can classify states into de facto states and de jure states—though we may well find that the latter class is empty. But this is not in fact the way in which the expressions ‘de facto’ and ‘de jure’ are used in their natural habitat—international relations. If the government of State A recognizes X as having de facto authority in State B it is not asserting or expressing a belief that X is acknowledged to be their legitimate ruler by the inhabitants of B—though it may well believe this, and the belief may be one of its reasons for recognizing the de facto authority of X in B. In the speech-act of recognizing X’s authority in B, it is announcing its willingness to treat X, rather than Y or Z, as the person or body with whom it will carry on diplomatic relations, make treaties, and so on. (After all, one must negotiate with somebody, and one can only negotiate effectively with someone who has effective power.) For it to recognize X as having de jure authority is to take the further step of endorsing X’s claim. Just what this extra step amounts to is something that could only be gathered from a detailed examination of the complexities of international law; but one thing is clear: recognizing de facto and recognizing de jure authority are distinct speech-acts, neither of which is to be understood in terms of making different assertions or the truth or falsity of a belief.

If we adopt Hart’s richer concept of the existence of a rule and pay more attention to the great variety of speech-acts which that concept invokes, the problem appears in a different and more hopeful light. An official of a regime who claims authority over me in some respect is both asserting that there is a rule of the system which empowers him to give me such and such an order and using the rule as backing for his claim; and since he is doing two things, I can counter his claim in two different ways. First, I can assert that there is no such rule, and if I take that line there is a genuine contradiction—assertion and denial of a proposition that can be tested for truth. (In practice, things are not always as simple as that, since rules are often not crystal clear. That is why we need courts to interpret them, and this, as we shall see, has important consequences for the concept of authority.) Now, if I take this line, I thereby show that, like the official, I myself adopt the internal point of view towards the regime. But I might deny his authority, not on the grounds that he has made a mistake about the rules, but on the grounds that I do not recognize the validity of the system, while agreeing that the rule to which he points is a valid rule of that system. In taking this line I show that, unlike him, I do not adopt the internal point of view towards the system under which he has authority. To be sure, there is a conflict here—a conflict which may end in tragedy, my death or a civil war. But there is no contradiction, if by ‘contradiction’ we mean assertion and denial of the same proposition, and there is no paradox. For the claims and counter-claims which constitute the social practice can be made from different points of view and there is no neutral point of view which is neither that of an official or a citizen from which they can be assessed for validity.
To adopt, as most of us do most of the time, the internal point of view towards the State is to do more than to comply with the commands of its officials out of sheer habit or fear, or to treat those commands as pieces of advice. It is to recognize as valid the system of rules under which certain persons have a right to give orders with a corresponding duty of obedience, and this in turn means that we are prepared to use the rules of the system in making the claims and counter-claims that constitute the practice. So the question ‘Can a rational, autonomous man submit to authority?’ which Wolff raised and to which he found himself, to his surprise, bound to answer ‘No’, can be reformulated as ‘Can a man adopt the internal point of view towards a system of rules which he himself has not made without sacrificing his rationality and autonomy?’ This is the question to which I shall try to provide the sketch of an answer—but only after a little more clarification.

First, to adopt the internal point of view towards a system of rules by no means requires treating the authority of the officials of the system as unlimited. We normally adopt the internal point of view towards the rules of a game for the good reason that the game could not go on unless we did; but a player who recognizes the right of an umpire to send him off the field does not recognize his right to order him to commit suicide. However, things are different when we come to the State, first because subordinate systems of rules such as those of a game, a club, or a school are under the over-arching jurisdiction of the State and secondly because you cannot just give up being a citizen of the State as you can resign from a club.

Nevertheless, even in the case of the State adopting the internal point of view does not require treating the authority of its officials as unlimited. This is clearly true in the case of subordinate officials, since their authority is limited by the rules themselves. There are orders which a policeman, or even a prime minister, cannot give. In a complex modern State, indeed, it is impossible to find any person or body of persons who has unlimited authority. But let us, in order to simplify matters and to face the issue head-on, adopt the semi-fiction that, in Canada, the Crown in Parliament is supreme. It is one thing to adopt the internal point of view towards this system, which entails recognizing the Crown in Parliament as the supreme authority, but quite another to recognize that authority as unlimited. To do that would be to acknowledge a duty of obedience to all its orders no matter what its orders were, and to do that is clearly incompatible with rationality and autonomy. What if the Crown in Parliament were to order everyone to commit suicide or every father to kill his first-born? Here again, some official of the system might claim that his right to make any rules he likes is unlimited, and non-autonomous men might acknowledge this claim; but it is evident that the autonomous man cannot do so. As I said before, there is a conflict here and may well be a tragedy. But contradiction and paradox only arise if we assume that the question ‘Has the official really got the right to give that order?’ can be raised from a neutral standpoint outside political space—a point of view that is neither that of the official nor that of the subject.

The second point is closely connected with the first. What is at issue here is whether one has a moral obligation to obey the commands of someone who, under the system of rules, has a right to give those commands. To adopt the internal point of view is to acknowledge that one has; but this obligation is limited not only by the rules of the system itself but by the fact that it may conflict with other moral obligations. If it does, a morally autonomous man may refuse to obey the orders of an official without in the least challenging the right of the official to give the order. His
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position is that the moral obligation to obey orders given by officials is, like other moral obligations, always defeasible and happens, in this case, to be defeated by some other moral claim. His autonomy lies in the fact that the ultimate choice between conflicting moral claims always remains with him. There is no conflict between authority and autonomy here since in refusing to obey a legally valid order I am not denying the supremacy of the Crown in Parliament, not making the absurd claim that I or anyone else can tell the Crown what laws it may or may not make; I am simply denying that my duty of obedience necessarily over-rides all other moral considerations.

Armed with the distinction between the internal and external points of view and seeing that to adopt the internal point of view is not to assert anything but to perform a special kind of speech-act—sometimes literally a speech-act, as when we swear allegiance—we can set aside the question 'Can any government have de jure authority?' as formulated under a false impression. To ask me whether the present government of Canada has de jure authority is to ask whether I adopt the internal point of view towards the constitution of Canada and the answer (if it is of any interest) is that I do. For to say that the government has de jure or legitimate authority is not to make a statement of political fact, but to endorse, acknowledge, or recognize its right to give me orders and a corresponding moral obligation on my part to obey—and this I do. Thus to say that an official has such and such powers is both to assert that the rules give him those powers and to express one's adherence to those rules. In its latter role, 'X has the authority to do Y' is in important ways like making a promise. (I am not arguing, as many theorists have, for the idea that one's obligation to obey the State arises from the making of a promise, only that the two kinds of obligation are analogous.) A man who makes a promise undertakes an obligation, thereby limiting his options in the sense that certain courses of action (those incompatible with keeping the promise) that were formerly available to him are now no longer available. That is the difference that making a promise makes. If he is moral, he regards himself as bound to do what he has promised unless he has some justification or excuse for not so doing. Just what would constitute a justification or excuse is, of course, often a very difficult matter to decide, depending on many factors in each individual case; but that all promises are defeasible by other moral claims is an inherent feature of the social practice of making promises. Making a promise limits one's options, but never reduces them to zero. In precisely the same way, I submit, adopting the internal point of view towards a regime gives rise to moral obligations, thus limiting one's options, but it does not involve giving the regime or its officials a blank check.

VI

My last methodological point is connected with the others and is, like them, all too familiar. Authority is a polymorphous concept, used not only in connection with the authority of officials or persons 'in authority'. In the example of the mere passenger who gets people to follow his lead in spite of having no official position I have already mentioned what is sometimes called 'charismatic' authority. The sense in which someone is said to be 'an authority on' Chinese vases or medieval music is another. Here part of what is meant is that he knows more about some topic than others do. But is that all? And if it is, why don't we say 'he knows more' and leave it at that? Why do we use the same word that we use in other contexts? In calling him an authority we assert both that he knows more and that, for that very reason, his opinions are worthy of respect and should, if a practical question arises, be fol-
lowed. It is in this sense that doctors and lawyers are authorities on matters medical and legal, and it is rational to do what the doctor tells you to do 'because he is the doctor', which must be understood to mean 'because he, being the doctor, knows better than you do'.

However, there is one crucial respect in which recognizing the authority of an expert differs from recognizing that of an official of the State. Although some people who hold official positions—the captain of a ship, for example—hold them at least in part because they have superior expertise, it would be absurd to pretend that this is usually the case. Apart from the fact that elections are haphazard affairs and that many positions are held by political patronage that has little to do with fitness for the job, there is the more fundamental point that what is ultimately at issue is the rationality of adopting the internal point of view towards the constitution as a whole, not towards particular orders of particular officials. This is because the right claimed by an official is not based on superior knowledge (though we may hope he has that) but on the validity of a rule. And since there are no experts on the validity of constitutions we cannot give the same good reason for substituting the judgement of another for our own that we can give in the case of a doctor. So the question is whether we can find a different but analogous reason for (limited) submission to the authority of a State. I think we can, and indeed that in some circumstances it would be irrational not to forfeit one's autonomy to the extent required.

The problems of political philosophy belong, not to the world of theory, but to that of practice—which is not to say that they are themselves practical problems. But when we are theorizing about practical problems we are theorizing about what to do and it is important to remember that action takes place at a certain time. Historians and other seekers after theoretical truth may debate endlessly; nothing requires them to accept any solution to a problem as final; but if I ask myself whether I should or should not adopt the internal point of view towards the present government of Canada, though I may brood on this question at a time when it is not pressing, I have to answer it whenever a situation arises in which I can choose between obedience and disobedience. The question 'What good reasons could I have?' does not mean 'What reason is sub specie actemitatis necessarily a valid reason?' It means 'Are the reasons for adopting it that I can muster, here and now and situated as I am, better than those for not adopting it?'. This is not, of course, to say that I raise this fundamental question, or that I ought to raise it, or that I culpably forfeit my autonomy by not raising it, every time a policeman tells me to pull over. The occasions that require thinking through the argument are fortunately rare; but my argument runs, in brief, as follows:

Men have different moral ideas and they do not always live up to those ideas—still less to those of other people—and they have conflicting and competing interests. Only rarely can our aims, moral and non-moral, be fulfilled without the non-interference, even the active co-operation of others. Given these rather obvious facts plus the fact that, in practical affairs, we have to act and therefore to decide within a finite time, it would be irrational not to accept some way of settling disputes as authoritative and final. For example, the important decision as to whether a man goes to prison or goes free depends on the verdict of a judge or jury—and the verdict may be wrong in the sense that he is found guilty of some crime that he did not in fact commit. We devise rules of procedure to minimize such errors and we allow appeals; but at some point a final determination of the case must be made. That is inherent in the human situation, and it would be irrational to reject all systems on the grounds that any system includes the possibility of error. The same principle applies, I submit, over the whole field of politics. If it is true that we cannot fulfill our aims,
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including our moral aims, without a framework of institutions that always provides for final determination of disputes and if any such framework entails submission to authority, it can be neither rational nor moral to refuse to adopt the internal point of view towards any system. So the real problem about authority is not Wolff's question 'How is it possible for a rational autonomous man to submit to authority at all?' but 'Under what conditions can such a man submit to it?'. To answer this question would take at least a book, since it would involve a discussion of the rival merits of different types of institutions. So I shall not even begin to try to answer it here, remarking only that since the value to each of us of being a member of a community which has authoritative ways of settling disputes is not necessarily dependent on our participating in the making of the rules, 'making my own laws' is not one of the necessary conditions of rational submission to authority. In Plato's State it would have been entirely rational for all the citizens to submit to the authority of the Guardians; and if good arguments for the superiority of democratic institutions are to be found, they are to be found, not on any Kantian principle of autonomy, but in the empirical fact (if it is a fact) that democratic institutions are the best safeguard against the abuse of power.

VII

It remains to clear up what might seem to be an inconsistency in my thesis. I have insisted that authority is always authority under some rule, but this is not true of the mere passenger in my story of the sinking ship who, I said, exercised authority over the other passengers. How, since authority is a polymorphous concept, I might retreat into saying that he has authority 'in a different sense', to be distinguished from both political authority conferred by rules and theoretical authority conferred by the possession of expertise. This is indeed true; the senses are not identical, but such ad hoc moves in philosophy are rightly suspect, and it is not an accident that we invoke the concept of authority in these three ways and perhaps more.

My account of political authority as intelligible only in terms of a rule-governed practice requires a distinction between the reason for obeying an official, which is always of the form 'because he is entitled under some rule of the system to give that order' and the reason for adopting the internal point of view towards the system as a whole or—what comes to the same thing—towards what Hart calls its Rule of Recognition. This is the fundamental rule by reference to which all the rules of the system can be tested for validity. Since it cannot, ex hypothesi, be tested for validity itself without an infinite regress, all we can say about it from the external point of view is that it is or is not in fact accepted by the members of a community. But the Rule of Recognition may itself be unclear, and in fact always is unclear in modern societies in which there is no locatable sovereign. It follows that we cannot ask such questions as 'What ought to happen, under the constitution, if a President defies an order of the Supreme court?' and always expect a clear answer. Recent events in the United States have made this dramatically clear. No one, for example, could be said to know whether impeachment was a political or a judicial process, and the reason was not that the question was one of great difficulty but that the Constitution of the United States could not provide an answer. At this point all we can do is to ask 'What would happen if...?' and be guided by historical examples of what did happen when Roosevelt threatened to pack the Supreme Court or Nixon threatened not to obey its orders.

Over and over again men in official positions have 'exceeded their authority' in the sense of giving orders which on a strict—or indeed any reasonable—construction
of the rules they were not entitled to give. Lincoln’s abolition of slave property in the territories was in flagrant violation of the Supreme Court’s ruling in the Dred Scott case, and Lincoln expanded the power of the Presidency in other ways that were constitutionally at least dubious. He got away with it because he had the respect of an overwhelming majority in the nation—except in the then impotent South. Other Presidents have tried to expand the power of the Presidency in unconstitutional or dubiously constitutional ways and have not got away with it because they lacked that respect. Especially in times of crisis, but also at other times, men will adopt the internal point of view towards the instructions of someone, even if he has no official position, who has acquired their respect; and they will refuse to follow his lead if he has lost their respect, even if he still has an official position which entitles him to give them orders. The point of my story about the authoritative passenger was that the other passengers followed his lead without thinking the matter out; they obeyed him because they respected him, and he obtained their respect in ways that you may call ‘non-rational’ if you like. In the same way the exercise of authority in the State is, in the end, not dependent on the validity of rules but on respect for its institutions and for those who man them—so that the political authority of official persons turns out not to be so very different from that of unofficial persons after all.

End Notes

(1) Essay IV: Of the First Principles of Government
(3) Ibid., p.15
(4) This is because, for Wolff, autonomy entails keeping the making of decisions in one’s own hands and submission to authority entails acting on decisions made by others.
(5) Ibid., p. 16
(6) This point was made by Professor Harold Greenstein in the course of the discussion on my paper.
(7) Ibid., p. 15
(8) Ibid., p. 6
(10) Ibid., pp. 54-56, 83-88
(11) Ibid., p. 10