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A COMPARATIVE STUDY OF
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ABSTRACT

This study shows that the current theories of justification of political authority fail to yield coherent answers to questions posed in this area. The distinction between justification and legitimacy has not been clearly made and emphasized as it should be. Also too much attention has been focused on the procedural criteria, while the substantive criteria of justification of authority have been neglected. In my treatment of the question, I have attempted to correct these shortcomings and have shown that the question of justification of political authority can be dealt with more adequately in a value-oriented framework. I have tried to demonstrate this by a study of such diverse thinkers as Kautilya and Manu, Confucius, and Mencius, Lao Tzu, and Chuang Tzu, Hobbes and Locke. This study yields us two hypotheses, one of a lower and the other of a higher generality.

The lower level hypothesis states that on the basis of the shared values of a society in conjunction with their belief systems about man, nature, society, end-means continuum et cetera, we can make fairly accurate predictions about their answers to questions of political obligation, limits of and checks on political authority, determination of political elites and so on. Verification of this hypothesis by an extensive study of various societies requires the development of a scientifically rigorous method by which we may discover and study the values and the relevant belief-systems of societies. This study, in so far as it points to the need of developing such a method and invites
testing by the use of such a method, provides us with avenues for further research.

At the general level, if the question, "Why is there political authority at all?" is to be considered as a request for the explanation of the existence of political authority as a universal phenomena, then the answer proposed, again as a hypothesis, is this: Most societies in past as well as present, have regarded the existence of some kind of political authority as necessary for the realization of those values which are required for a good life, even though conceptions of "good life" and the means to attain it have differed widely. Hence, political authority to some extent and in some form or other exists almost universally.

But if the question seeks a philosophical justification and not merely an explanation of the existence of political authority and political obligation, then the answers suggested above are not adequate. In order to answer the question in this sense, we will have to go into value theory to find a valid criteria to establish values which may be considered universally as morally compelling. I have noted the main four approaches to this question and have found them to be inadequate. Towards the end, however, I have suggested an approach which, with further developments and refinements may take us out of the quagmire in which value theory is today, and yield a universal value criteria.
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CHAPTER I
INTRODUCTION

In the current, main theories of justification of political authority, the crucial role of values has not been given a proper place. Too much attention has been centered on the procedural criteria, that is, on the procedures or rules by reference to which political authority may be justified, whereas the substantive criteria which raise the question of goodness and badness, wisdom and foolishness of the decisions made by those in authority, have been neglected.* We wish to propose that this constitutes a serious weakness in the discussion of the subject and that, in neglecting the role of values in political justification, the main theories have failed to deal adequately with the problems raised in this field. We shall proceed to substantiate this shortly, but first a few words on the usage of "authority,"** "justification," "legitimacy," etc. are in order.

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* This point is discussed in detail below. See pp. 6-11.

** The term "sovereignty" is sometimes used interchangeably with "authority." I have used it sparingly, if at all, for the reason that as traditionally used in political thought "sovereignty" has stood for the theory that in every state there must be a determinate sovereign exercising power which is supreme, absolute, entire, and unlimited. It presents the image of a society divided into two clearly distinct segments, the sovereign free from any legal restraints or limitations who gives orders, and the subjects who habitually obey. As such, political theorists in recent times have, by and large, considered it as a theory which obscures essential features of political organizations. Regarded as inadequate for the analysis of the state, the term sovereignty and the theory associated with it has been all but abandoned in recent times. For details see Bertrand De Jouvenal, Sovereignty (Chicago: The University of Chicago Press, 1957), ch. 6, pp. 87-104; H. L. A. Hart, The Concept of Law, (Oxford: Oxford University Press, 1961), ch. 4, pp. 49-70; S. I. Benn and R. S. Peters, The Principles of Political Thought, (New York: The Free Press, 1966), ch. 12, pp. 299-327.
Authority has been defined in terms of power, as for example, by Charles Hendel, George Catlin and T. D. Weldon. Others have defined it in terms of influence and "being obeyed." Some hold that it must be distinguished from persuasion through reason, whereas others have linked it firmly with reason. Still others have spoken of special

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"Authority is approved power; whether it is successful or not is strictly de jure irrelevant." George E. Gordon Catlin, "Authority and its Critics," Authority, p. 131. My italics.

T. D. Weldon, rejecting it as too simple "to identify authority" with "force rightly or justly applied" remarks, "It is rather the case that force exercised or capable of being exercised with the general approval of those concerned is what is normally meant by authority." The Vocabulary of Politics, (Penguin 1954), p. 56.

2 "Authority is a type of relationship that we can call influence." "Anyone who is regularly obeyed is an authority." David Easton, "The Perception of Authority and Political Change," Authority, p. 178 and p. 182 respectively. My italics.

3 "Authority, . . . is incompatible with persuasion, which . . . works through a process of argumentation. Where arguments are used, authority is left in abeyance." Hannah Arendt. "What Was Authority," Authority, p. 82.

"On the other hand, if A sends a message to B and B adopts this message as the basis of his own behavior without evaluation in terms of his own standards of what is desirable under the circumstances, we can say that A has exercised authority over B." Easton, op. cit., p. 179.

4 " . . . authority and reason are closely linked, indeed . . . authority rests upon the ability to issue communications which are capable of reasoned elaboration." Carl J. Friedrich, "Authority, Reason and Discretion," Authority, p. 29.
competence\textsuperscript{5} or the founding experience\textsuperscript{6} as the key notions in understanding authority.

To bring some order to this mass of confusion, following Benn and Peters,\textsuperscript{7} we shall distinguish authority \textit{de facto} from authority \textit{de jure} and both from power. Ability to get one's proposals, commands, pronouncements accepted and thus determine other people's behavior is to have authority \textit{de facto}, whereas to have the right to take certain types of decisions, make pronouncements, issue commands of certain kinds and get others to obey them is to have authority \textit{de jure}. There has to be some procedures, a rule or a set of rules which authorize an agent to make decisions, issue commands and enjoin others to obey. The basis of his right, then, is the existence of such a rule. If an association is able to enforce its rules, authority \textit{de jure} is then also a source of power.

But although authority \textit{de jure} may be the basis of a good deal of coercive power, we should not confuse the fact that it is the existence of accepted or valid procedures which is the basis of power, and not

\begin{itemize}
\item[5] "All assertions about political authority . . . are grounded, whether explicitly or implicitly, in the notion that political authority stems from special competence in politics and government." Norman Jacobson, "Knowledge, Tradition and Authority, A Note on the American Experience,"\textit{ Authority}, p. 113.
\end{itemize}
power which is the ground of right to command obedience. In the case of a judge, for example, his pronouncements are enforced by use of coercive power if necessary because he occupies an office in accordance with the rules and such an office confers such powers on him. Out of the office, he loses that power. Thus, it is authority which is often the source of power, depending on the nature and power of the organization to get its rules enforced, which power in the case of political associations exists to a high degree; and not power which is the source of authority.

But it may be said that there is no difference between power and authority de facto, even though a distinction may be made between power and authority de jure. However, this is not so. Authority de facto does not confer on a man the right to get his proposals accepted, but he is in fact, getting obedience without use of or threat of force. If he does use or threaten others with force, then of course, it is not a case of authority de facto, but of power. There are, however, cases in which a person does not use power, does not have the right in the strictest sense of the term, to get his proposals accepted; and yet others, in fact, fall in with his proposals. The sources of this may be many; varying from purely personal qualities like the way he looks and acts, his manners of speech, to his proved competence and advanced knowledge of a field as in the case of the authority of experts.

Now, I think that the various interpretations of authority, though not exhaustive, point to certain insights about various aspects of authority. What we have said above should help us see this. The authority of the expert, the scholar, the doctor, etc. is, in the final analysis, dependent upon his ability to make pronouncements which are
capable of reasoned elaboration; whereas in the case of the person whose authority depends on an irreducible charm or charismatic factor in his personality, demands for such reasons almost always indicate that he is already on the verge of losing it. The man who has de facto authority, if he starts using force, is then exercising power, not authority: Thus, the point of those who take pains to make a distinction between authority and power.

We said above that to speak of authority de iure is to presume a rule or system of rules, which authorize an agent to issue commands, make pronouncements etc. and others to obey him. When the authorizing rule is a law, and the association a state, we call the 'authority' 'political authority' and the corresponding obligation to obey 'political obligation.'" 8 Now, since the state generally has a considerable amount of power at its disposal to enforce its laws, it is clear that one in a position of political authority enjoys a great amount of power. If the government is a "legitimate government," then the source of its power lied, in the last analysis, with the approval of the people. It is this insight which lies hidden in the definitions of authority in terms of "approved power," and "Valid power."

As Easton has said, there would be little point in debating whether the one or the other interpretation of authority conveys the real meaning. All we can do is to select one which is most useful in analysis. 9 Our analysis avoids arbitrary selection of one over the

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9 See Easton, Authority, p. 181.
others, but is comprehensive enough to take into account and explain various situations in which the concept of authority is brought to use. Before we close this section, we may note one special feature of Carl Friedrich's definition, however. Insisting that there is a strong link between "authority" and "reasoning," he goes on to say, "And by reasoning I do not mean the absolute rationality alleged to be possessed by mathematics and logic, that is to say, the reasoning which calls no value judgements into play, but rather the reasoning which relates actions to opinions and beliefs, and opinions and beliefs to values, however defined."10 We have seen above the relevance of "reason" in certain kinds of authority; here we wish to notice that "reasoning" as defined by Carl Friedrich, viz, in terms of opinions and beliefs linked to values, indeed, plays a crucial role; but this role lies in the justification of political authority rather than in its definition as Carl Friedrich supposes.

We now deal with "legitimacy" and "justification." Most writers on the subject use these two terms indiscriminately. But there exists a distinction between the two, and a failure to keep this distinction clear may well have contributed greatly to confused thinking on the subject. We shall restrict the use of the term "legitimacy" to the cases where the set-up and use of political authority is in accordance with the established and accepted procedures and rules in a society. To raise the question of legitimacy then is to raise the question whether decisions are being made by the right kind of people, i.e. by the people who,

10 Friedrich, Authority, p. 35.
according to rules, should be making the decisions, and whether the decisions are being made in accordance with the rules of the particular society. It is not to raise the question of the goodnes or badness of the people or of their decisions. Thus, a regime may be legitimate in the sense that it came to power in accordance with the rules of the land, and yet not be benevolent, wise or good. The latter question of goodness is not exhausted by discussion of legitimacy. In other words, a government may be legitimate and yet tyrannical. Thus, a person may ask the question why he should obey it. The demand for justification does not stop at legitimacy. The question of justification, then, is separate from, and should not be confused with that of legitimacy of authority. The latter question is settled relatively easily by reference to the rule or the system of rules from which authority in a society is derived.  

The question of legitimacy is decided by determining whether the person in authority is acting within the sphere recognized to be his under these rules, and by asking whether the person in command really satisfies the conditions laid down by the rules. In a study of different societies, this should not present us with any major difficulties. After we have studied and identified the system of rules which bestows authority, we can answer the question as to what kinds of conditions a government must satisfy in order to be a legitimate one, and also whether a particular government is a legitimate one or merely based on the instrument of coercive power. Different societies will have different kinds of normative rules which bestow legitimacy. Attempts have been made to

classify authority on the basis of types of such legitimatizing rules. Weber's classification of legitimate authority into traditional and "charismatic" is a case in point. We shall have something to say on this later (pp. 21 below). But the question that we are interested in is one which is more general than that of settling legitimacy. To illustrate this point, suppose one asks the question, "Why should I follow a particular law?" Let us also suppose that he knows that the law has been passed by a recognized body, but he may still doubt the constitutionality of the law, and his question may be intended to raise this point. This, however, can be settled, and if the constitutionality of the law can be demonstrated, he has then found a satisfactory reason to obey it. But suppose his question is not a request to test the constitutionality of a law; he may well know that; his intention is to raise the further question of why he should abide by such a constitution. His intention is to question the validity of the whole system, and not merely of some act of law within the system. Nor may he stop here, for it is possible to raise the still more general philosophical question, "Why should I obey any laws at all?" In other words, he is raising the question of what justifies authority as such; what general condition must be satisfied for one man to have de jure authority over others. He is asking what the grounds of political obligation are, and whether there ought to be any government at all.

Thus, the question of justification is not answered or exhausted by the question of legitimacy. And one reason is that the discussion of legitimacy is limited to the requirements of the procedures, and it is
not correct to ask whether a command is wise, prudent, or otherwise desirable before obeying it. Such considerations, however, are essential when we deal with the question of justification of authority.

Some writers in recent years have insisted that only the question of legitimacy is in order and that any general questions of the sort we have mentioned above are improper. Thus, T. D. Weldon in his *The Vocabulary of Politics*, remarks that "questions about the origin then, of authority, in so far as they are sensible and answerable questions, are concerned with existing rights, laws, and political organizations generally." That is, the sensible questions are about the legitimacy of authority, which of course are decided unproblematically by reference to the existing normative rules. But to ask a question such as "Whence does the state derive its authority?" is not a proper question. There is nothing to be gained by asking such a question. The same considerations are advanced for the corresponding obligation to obey. It is all right for someone to ask why he should obey the commands of a particular person, and he can be satisfied by our pointing out to him that there is a law in a particular country which so authorizes such and such a person to issue commands, and that, therefore, it is right for him to obey such a person. But suppose our man is not satisfied with this answer and raises this further question, "Even if it is a law, I don't see why I should obey it." The only further comment possible, according to Weldon, in such a case is, "Well, this is Great Britain, isn't it?"

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13 Ibid., p. 52.
Margret Macdonald in her *The Language of Political Theory*, admits that the general questions about political authority are age old ones; finding valid reasons for the corresponding obligation to obey is described by her as "the fundamental puzzle of political philosophy."\(^{15}\) The puzzle in question is not, "Why should I pay income tax?" or "Why should I support the British Government?" but "Why should I obey any law, support any government, acknowledge the authority of any State?"\(^{16}\) By considering the consent theorists', the idealists, and the utilitarians' answers to this question, she shows that none of them alone is adequate and then goes on to say, "May it not also suggest that no such general answer is either possible or necessary?" More boldly, "The answer to 'why should I obey any law, acknowledge the authority of any State, or support any Government?' is that this is a senseless question."\(^{18}\) The questions can be discussed only in their particular context and divorcing them from the context will not help us find any sensible answers. Whether or not we ought to obey must depend upon the circumstances.

Although it is true that we cannot in advance and in the abstract settle the very practical questions centering around political obligation, cannot in the abstract decide when political obedience is called for and when dissent and even revolution; yet political philosophers can with profit discuss the kinds of criteria which ought to be deemed relevant in

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\(^{16}\) *Loc. cit.,* (Italics original).


\(^{18}\) *Ibid.,* (Italics original).
considering such questions. The problem of political obligation is most acute when the state is sick, when things are in a state of unrest and near anarchy, and someone is seriously contemplating disobedience or revolt. It is no help to people in such times to be told the question, "Why should I obey the law?" makes no sense, that it is a part of living in a political society that you obey laws. Thus, theories which stop at legitimacy, stop being useful at crucial times. As will be readily admitted, the possibility of unjust laws, as well as of governments being constituted according to the established norms of a society and yet being bad or tyrannical cannot be ruled out. As D'Enterves approvingly states:

The certification of something as legally valid is not conclusive of the question of obedience; that, in other words, the "official" system, the state, must be in the end submitted to some further scrutiny before its power is recognized as morally binding and as worthy of respect and the loyal allegiance of its citizens.

Thus the settling of legality does not conclusively settle the question of political obligation, and despite the claims of Macdonald and Weldon, we need to look beyond the legal horizons. The accepted values of a society provide us with a framework for such a scrutiny. An unwillingness to examine the question further and simply dismiss it as meaningless would only be an attempt to avoid it. For example, on the

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19 Cf. "One might argue, however, that such a theory (of political obligation) should at least tell him what sorts of considerations are relevant to his decisions, direct his attention and tell him where to look." Hannah Pitkin, "Obligation and Consent," II The American Political Science Review, Vol. LX (March, 1966), 40.

basis of Weldon's reasoning, if the conditions of legitimacy are satisfied, further questions need not be asked; obedience should be given ungrudgingly. Weldon adds:

I am not convinced that anyone in fact does obey anyone else except (a) from habit, or (b) in the belief that the other has some mobilizing force at his disposal in the case of disobedience, or (c) in the belief that the other is intelligent and well intentioned and that obedience to him is therefore reasonable.21

This may be taken as an intended explanation of the fact that people obey, but the question is not just a matter of fact to be explained but a matter of right to be justified. Then does Weldon imply that from these factual considerations people can find guiding rules?

Margret Macdonald, in an attempt to avoid the position that all laws are just and acceptable says, "It is not self-contradictory to say, 'This is an English law but it is a bad law and ought not to be kept.'"22 Now, if it is an English law, it has presumably met the conditions set by English rules, the English Constitution etc., and thus cannot be questioned on grounds of legitimacy. But then how do we decide it is a bad law, and that we should not obey it? Since considerations of the existing law, rights etc. are not relevant here; we are led, contrary to Macdonald's thesis, to general conditions of goodness and badness of laws, general criteria of political obedience and disobedience.

21 Weldon, op. cit., p. 56.

22 Margret Macdonald, "The Language of Political Theory," p. 188.
On this point, Hannah Pitkin in her "Obligation and Consent" provides us with an interesting case. The general trend of her essay supports what we have said above. In the last part of her essay, however, she remarks that the search for a justification of legitimate authority is misguided, that if someone doubts and wonders why he should not disobey legitimate authority, one can only say that this is what "legitimate authority," "valid law," "genuine authority" mean. "It is part of the concept, the meaning of authority that those subject to it are required to obey, that it has a right to command. It is part of the concept, the meaning of 'law,' that those to whom it is applicable are obliged to obey it." In cases where the government is obviously tyrannical yet established in accordance with the accepted procedures, one would have to say either that the government is not legitimate, and then we should have to find a new word to describe what is not legally valid, if we are not to obliterate a perfectly valid distinction and put two very different kinds of authorities in the same bag. If the "legitimate" above is being used in the normal sense of the term, then to say that it is part of the meaning of "legitimate authority" that those subjected to it must obey would have the curious consequence that at times we are obliged to obey even a most tyrannical government, since there is no impossibility of a legal government being tyrannical.

24 Ibid., p. 49.
25 Ibid., p. 48.
26 Loc. cit.
Similarly, a bad law would have to be called not a law at all—a move of dubious usefulness,27 else one would have to concede that even bad laws should not be disobeyed. We should be able to avoid such dilemmas by maintaining the distinction between legitimacy and justification. Moreover, maintaining this distinction, we would not have to labour, as Miss Pitkin had, to bring out the misguided character of the question which is raised even after a clear justification has been given. For such a question would then read something like this: "What is the justification of justified authority?" "Why should I obey even justified authority?"

What we have said above points to the usefulness of carrying on the discussion of justification of authority, emphasizing the substantive criteria as against emphasizing the procedural.28 I shall now advance additional reasons to show the soundness of such an emphasis, especially in the framework of values. First, men worry about not only whether the proper rules have been followed in ascription of authority, but also about what policies those in power follow and about the kind of results

27 See e.g., H. L. A. Hart, The Concept of Law (Oxford University Press, 1961), especially pp. 202-207. "If we adopt the narrower concept, we shall exclude from 'law' . . . morally offensive rules. It seems clear that nothing is to be gained in the theoretical or scientific study of law as a social phenomenon by adopting the narrower concept; it would lead us to exclude certain rules even though they exhibit all the other complex characteristics of law. Nothing, surely, but confusion could follow from a proposal to leave the study of such rules to another discipline, and certainly no history or other form of legal study has found it profitable to do this." P. 205.

28 In the light of our discussion above, the latter would be taking questions of legitimacy as the terminal point, whereas, the former seeks to go beyond it.
they bring about. They worry not only about the legitimacy of the
decisions but also whether they are good decisions. Emphasis on the
procedural criteria obscures the importance men place on the realization
of certain ends and goals and on the role of values in political justifi-
cation. The results which men wish their governments to bring about vary
from society to society, some of the most common ones being law and
order, justice, freedom, welfare or protection; the important point is
that no matter how fair or well accepted the procedures, if a government
constantly fails to actualize the values which people hold dear over a
prolonged period of time, the citizens will tend to withdraw from, resist
or even revolt against such a government, regardless of the legitimacy
bestowed upon it.\textsuperscript{29} The fact that legitimate Democratic governments in
most developing nations fell because they failed to meet the rising expec-
tations of the people is of relevance here. The traditional discussion
of authority tends to obscure this important fact of political life—viz.
a legitimate decision is not necessarily a good decision and legitimate
authority is not necessarily always justified.

The main theories of justification which rely heavily on the
procedural criteria such as the Divine Right, Consent, fail to illuminate
in any helpful manner and were successful only in vexing the question of

\textsuperscript{29} Cf. Bertrand De Jouvenal, "... when the subjects of a State
complain of decision which has been taken, what interests them much more
than who took it is what it is. A decision even though it has been taken
by the competent authority, 'the who,' may still vex and revolt the
scandalise: and that because of what is in it (the 'what'). Few and far
between are the citizens who, if a decision handed down to them meets
with their approval, ask themselves whether the authority from which it
comes has not exceeded its competence." \textit{Sovereignty} (The University of
the corresponding obligation to obey. Following Hannah Pitkin we may note four types of questions which are generally associated with the problem of political obligation. These are questions concerning the limits of obligation—when one is obligated to obey and when not; the locus of authority—whom is one obligated to obey; the difference between legitimate authority and mere coercion—is there really any difference between the two; is one really ever obligated; and the question of justification of obligation—why is one every obligated to obey even a legitimate authority.30

It would seem that the Divine Rights theory offers an answer to question number four above; for if we grant that there is a God, then the fact that he bestows authority in certain people and commands obedience on the part of others, is surely a decisive justification for political obligation. This, however, will not do. First, it is based on the unproved assumption of the existence of God; secondly, people have raised and may raise this further question of why God instituted authority at all and bring in the interests of the subjects, etc. as possible solutions. To do this, however, would be to shift to an entirely new criteria. To other questions the Divine Right theory gives no conclusive answers. Since all power comes from God, it would seem to be implied that there is no difference between power and legitimate authority. The resistance, thus, would never be justified. This offers little help in times of unrest, change, and civil war. On the other hand, it has been argued

30 Hannah Pitkin, "Obligation and Consent," I, p. 991. The following discussion of the various theories from the point of view of these four questions follows closely Hannah Pitkin's "Obligation and Consent," I and II.
that there is a difference between divinely ordained power and illegitimate power and that the fact that authority is divinely ordained does not exclude the possibility that under certain circumstances God would offer authorized resistance.

Tradition is too vague and too broad and leaves considerable latitude for diverse interpretations. Authority from this point of view is legitimate if sanctioned by tradition--but so are the limitations of authority if they also are traditionally prescribed. Thus, in Benn and Peter's words, "traditionalism offers no unequivocal prescription for particular situations." If, however, traditionalism is interpreted as the view that old established power is legitimate in every case and that there is no limit to our obligation to an authority so instituted, then it would have the consequences of allowing an old established but tyrannical government to keep power securely and enjoying upon the oppressed subjects the duty to obey.

The Consent theory seems to have answers for all the four questions listed above. On this theory one is obligated to obey if and only if one has consented to obey those only to whom consent has been given. One's consent, then, defines the limits of one's obligation as well as the person or persons to whom it is owed. The presence or absence of such consent also distinguishes legitimate political authority from mere coercive power. If one has agreed that it is right for one to have an obligation, the consent theory then provides the justification for one to obey. It would seem then that this theory deals with all the

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four questions concerning political obligation in an adequate fashion. However, problems arise as soon as one examines it a little more closely. First, there is the question of whose consent defines the obligation. Sometimes the notion of an original social contract is put forward and the consent of our ancient ancestors is brought forward as relevant. But it is clear that our obligation today cannot be decided by the supposed consent of our hoary ancestors given in some pre-historic times. Considering the consent of those subject to power, we still have several points to consider. Is it to be the individual's personal consent that determines his obligation, or the consent of all or a majority of the subjects? And is it to be his or their present consent or consent given in the past? A consideration of these points brings forth the problems which are inherent in this theory.

The first alternative says that one is obligated only in so far as one personally consents right now. As soon as an individual stops approving the policies of the government and withdraws his consent, he ceases to have any political obligation. But this really would not do. As Miss Pitkin puts it, "This doctrine would have the peculiar consequence that you can never violate your obligation; for as soon as you decide the time has come for revolution (withdraw your consent), your obligation disappears." 32

The position that one is obligated insofar as one has personally in the past consented, would leave the possibility open of becoming obligated to a tyrannical government. There also seems to be the real

problem of why and whether one's past promise should bind him now. The argument that it is self-evident and natural that promises oblige one will not really do; for in what sense is it natural and self-evident that promises should oblige whereas it is doubtful and problematic and unnatural that law and authority oblige?  

The third position is that one is obligated insofar as one's fellow subjects have consented. But if that be the case then their obligation may accrue to one even when one has not consented. And why should one accept that? And also, how about the fellow citizens? Is the rule binding only when all of them have consented? This surely would narrow the area of obligation to near zero. To ward off this difficulty it has been proposed that the consent of the majority should be binding. But the majorities may well be misguided. And also there is the question of why should what the majority think be binding on one. That itself needs to be justified. To say that one ought to follow what the majority says because one has consented to majority rule will not do. For the whole cycle of problems starts all over again. Was this consent given in the past or present? Was it a majority who consented to accept the majority decision and so on. There is also the very real difficulty of the extent to which consent theory can be applied to citizens of a modern state. For the majority of citizens in a modern state cannot be said to have consented. Most of us have not signed any contract with our government or our society or our fellow citizens. Tussman, who has in recent times championed the consent theory, recognized this when he said, "If it

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33 Ibid.
is insisted that only those who have consented are members of the body politic then the body politic may shrink alarmingly. . . . Any description of a body politic would have to recognize that there are some, or many 'citizens' who could not be described as having consented."\(^{34}\) Thus he recognizes that the members--those who have consented perhaps tacitly but knowingly are a relatively small proportion of the population. Does it mean that only those members are obligated, and that the vast majority is free from political obligation? Tussman would, of course, allow no such exception and he holds that the vast majority of non-consenting members also have political obligations. But surely, one cannot be convincing and hold both that consent is the only real basis of political obligation and that the vast majority of people who never consented also are politically obliged.

Locke gets out of the difficulty by resorting to the concept of "tacit consent." But the concept of "tacit consent" is stretched so far that merely being in the territory of the government is enough to hold that one has consented tacitly. But if stretched so far, the concept loses all meaning. On this basis, just being present within the territory of a tyrant would seem to constitute tacit consent to it and thus create an obligation to obey him. This is indeed tantamount to saying that everybody in the body politic is automatically obligated.

Weber's classification in terms of legal-rational, traditional and charismatic authority,\textsuperscript{35} suffers from the same kind of shortcomings. It completely ignores the substantive criteria of justification and thus ceases to be as useful a tool for analysis as it could be.\textsuperscript{36} Classification of authority in these three categories may give us some information about various kinds of legitimatizing factors which operate in normal times. But it gives us no guidance to the vexed questions of when to obey, whom to obey, when states are rocked by unrest and turmoil and people are questioning even the legally valid rules. At such times, references to rules coming from time immemorial or to legal-rational procedures or charisma of the leader sound curiously hollow and unsatisfying. Thus Weber's analysis does not answer the more general question of authority and political obligations which are the focal points of this study.

\textsuperscript{35} The legitimacy of the legal-rational type rests on a belief "in the 'legality' of patterns of normative rules and the right of those elevated to authority under such rules to issue commands"; of the traditional type, the legitimacy rests on "an established belief in the sanctity of immemorial traditions"; and the legitimacy of the charismatic type rests on "devotion to the specific and individual person. . . ." Max Weber, The Theory of Social and Economic Organization, A. M. Henderson and Talcott Parsons, trans. (London: Free Press, 1964) p. 328.

\textsuperscript{36} Cf. Talcott Parson: "... Weber's classification is not one of types of legitimation in terms of different types of values, but on the one hand, of level of differentiation of the social system with reference to political function, and on the other, of stability of institutionalization of the value system in this respect. Variations which are a function of type of values, then, would be expected to and could be applied to any of his three types." "Legitimation and Political Action," Authority, p. 213.
We then need to look at the problem of justification and the corresponding problem of political obligation from a fresh angle. The traditional ways are beset with difficulties as we have seen above. This lends extra support to our proposal to analyze the problem from the point of view of justification and not merely legitimacy, whether this legitimacy is derived from rational-traditional rules, or Divine Rights or Consent.

We have seen now the difficulties which beset the main theories of justification. We have seen that there have been too little emphases on ends, and too much on procedures. If then, the discussion of political justification from the point of view of procedural criteria would not be very helpful, in what way shall we approach the problem from the point of view of substantive criteria? Could "personal good" of the individual or "common good" be taken as our point of focus? It cannot be the duty of the state to procure the personal goods of the individual. Each individual thinks of his goods, satisfaction of his desires as being generally in conflict with those of others. Thus, an attempt to secure the goods of the individual is bound to lead to chaos. The goals which the state seeks to realize must be of a more general kind. Philosophers, sometimes have, in fact, held that it is the purpose of the state to advance the "public interest" or "the common good"; and they have spoken of "the common good" as if it were a determinate goal. But what does it mean? Does the common good direct us to a realization of the interest of everyone? But this is a virtual impossibility. Indeed there are certain governmental functions which are in the interest of most people—protection from external enemies and internal chaos, good roads, disease and
hunger control, prevention of epidemics and famines, etc. But these may more accurately be called common goods rather than "the common good."

For, when people talk of the common good, they may advocate certain measures which may actually involve sacrificing the interests of some at the expense of others. The common good, for example, is said to justify welfare programs like education, old age pensions, social security, free medicine, fair housing to the poor, which may involve sacrifice on the part of some people. Thus, the common good cannot mean serving the interests of all. First, as the term is used, it does not prohibit taking such measures as may involve sacrificing the interests of some for the sake of others. Secondly, it would be a virtual impossibility to so act as to realize the interest of everyone. As noted earlier, individuals desire different things and as long as there are less goods and more people, clashes are bound to occur and one cannot even start trying to realize the interest of everyone. If we mean by the common good certain specific goals such as prosperity, high standards of living, full employment, conquering disease and famine, etc., then the term can be given some determinate meanings; but this is not generally what is meant to be conveyed. As Benn and Peters have pointed out, the prescriptions "maintain full employment" and "seek the common good" are not of the same type.\footnote{Benn and Peters, \textit{The Principles of Political Thought}, p. 321.} The former is an advice of substance, whereas the latter is that of procedure. It does not define a determinate goal. Perhaps its main use is in the negative sense--to rule out partiality, in which case it
does not give us any substantive criteria. In short, we may say with Acton\(^{38}\) that what "the common good" is and how it may be referred to in political justification is not clear. It lacks any definiteness, and appeals to it will not do.

Thus, neither the personal goods of the individual, nor the pursuit of the common good provide us with a useful way of looking at the question of the justifiability of governments. May it lie in a study of the values of the society, especially those values which are held in common by a people and the realization of which is deemed to be necessary for the creation of those conditions which are thought to constitute the necessary minimum of the good life? The term "value" for the purpose of this study must be so used that it does not prejudice our inquiry. A fairly general definition, thus, suits us eminently. By values we mean standards or criteria, generally shared, by reference to which things, actions, principles, conduct are judged good or bad. These criteria of evaluations which deal with political conduct: conduct of people as subjects or governors, are political values. The term "value" as used here is an open concept also in the sense that it is not confined to only "moral values." Apart from the difficulty of separating the moral values from the non-moral or amoral values, such a specification would arbitrarily limit our research.

Through a study of such diverse thinkers as Kautalya and Manu, Confucius and Lao Tzu, Hobbes and Locke, we will try to show the

usefulness of tackling the problem from the value point of view. Manu and Kautalya, Confucius and Mencius, Lao Tzu and Chuang Tzu represent the most influential schools of political thought in classical India and China. Their inclusion was thus a relatively easy matter. But turning to Western though we faced a rather difficult choice. However, since consent theory has played an important role in political thinking and has much to contribute to a comprehensive understanding of the problem and since no other thinkers discussed the question from the consent point of view in as vigorous a fashion as Hobbes and Locke, we included them in our study.

By a study of these thinkers we propose to show that discussion of the question in a value oriented framework gives us a certain vantage point from which we can deal with political phenomena in a more adequate fashion. We will show how values penetrate political life and become a determinant factor in the determination of such questions of political philosophy as the limits of political authority, the misuse of power, the making of politically influential elites, and the question of political obligation in its various forms.

But what is the source of these values themselves? They justify authority but what justifies their adoption? A categorical answer to this question is not in the scope of this study; that should be an appropriate question for a treatise on ethics or value theory. In this study we shall merely outline the main approaches to the question. We shall, however, point out the belief-systems and observe their role and their relative importance in the formulation of values.
Before we close this chapter, we wish to make note of a criticism which may be made of our distinction between legitimacy and jurisdiction. It may be said that there exists a close connection between source of legal validity (legitimacy criteria) and values, specifically the moral values of a people. The laws and the constitution of a society may themselves be viewed as embodiments of shared values. It may be said, then, that the distinction as we have made and emphasized, is subject to criticism, in so far as it tends to obscure this fact.

Now, we should not hesitate to admit that the development of law, in most societies, in past as well as present, has been profoundly influenced by their accepted morality and shared values. The influence of the moral ideals and other general values is clearly discernible in the modern democratic states. As in the case of the United States the constitution, which is the ultimate criteria of legal validity, explicitly incorporates substantive moral values like preservation of life and liberty. We can also expect that more often than not values are reflected in laws which are enacted consciously and deliberately by the people and their representative. The ways in which the law, in its enactment, interpretation and reinforcement, mirrors the shared moral notions and values of a people, especially in modern democracies, are numerous, and this fact should be indisputably accepted. 39

Such a close connection between value and legitimatizing criteria, however, does not stand in the way of making a clear distinction between the two, nor does it detract from the usefulness of such a

39 Cf. Hart, The Concept of Law, Ch. 8, IX.
distinction. In addition to what has been said above on the subject, there are at least three main considerations for keeping the distinction clear between law and morality, after due recognition has been given to the close connection which may exist between the two.

First, although there has often been a close link between law and morality, and though laws and constitutions have often embodied accepted values and satisfied moral demands, such a connection between the two is in no sense a necessary truth. Even in democracies, not all laws can be understood as carriers of moral value. Some come closer to orders backed by threats rather than expressions of people's moral sense. The fact that the law (legal system) of a state is something which actually exists and not necessarily an ideal or an expression of an ideal, that it is not that which ought to be but that which is, becomes more clear once we turn our attention away from democracies like the U. S. to governments headed by dictators and military juntas, aristocracies, and monarchies. The ultimate principle of legal verification may, in such cases, be no other than the whim of the ruler, or the interests of the ruling minority. It is not very difficult for a small but well organized, efficient and ruthless minority to seize power and maintain in a position of permanent inferiority a large number of people. Cases of foreign imperialism, as in most Asian and foreign countries until recent times, and of still prevailing white minority rule as in South Africa, are of pertinence here. In instances such as these, a large number of people may be more helpless victims of the system. The legal standards rather than being regarded as an embodiment of the shared values of the majority of the people may, in fact, be described more
accurately as merely a source of possible punishment. Only if the system is fair and responsive to public sentiments is it likely to incorporate the common values of the people. The same cannot be said of a narrow and exclusive system which is run in the interests of the dominant group and is, in general, repressive. 40

Secondly, we not only talk of justice or injustice according to laws, but also of justice of injustice of the laws. Thus, although the legal system may be said to incorporate some values, yet, clearly, it does not exhaust the shared values, for the sphere of the latter is more extensive. Thus, it is always possible to question, examine and evaluate the legal system in terms of the broader cluster of accepted values. While a study of the latter will include the values enshrined in the constitution, etc., the reverse is not true.

Lastly, the discussion of legitimacy, as we have shown above, is procedure-oriented. Even if the presence of values in the legitimacy criteria be admitted, in a consideration of legitimacy, values, ends, etc., are given a subsidiary place, while the whole attention is diverted to the examining of whether the establishment and exercise of authority conforms to the prescribed procedures. We have contended that such an emphasis on procedures and a neglect of the substantive criteria constitute a serious weakness in the theories of justification. Discussion in terms of values keeps the focus on the proper place.

Thus, while it is admitted that in many cases, as in modern
democracies, legitimacy criteria are not entirely free from the values
of a people, the considerations given above should justify our insistence
on keeping the two separate.
CHAPTER II
JUSTIFICATION OF POLITICAL AUTHORITY
IN KAUTALYA AND MANU

The concept of dharma dominates ancient Indian beliefs about society, politics, and the individual, and is essential to Kautalya's and Manu's justification of political authority. Dharma in Indian literature is used in numerous ways and defies an exact rendering in English. It literally means "that which upholds," but came to imply virtue, the moral duty, righteousness, eternal and necessary moral law. From the Vedic times onwards, its meaning has varied from "fixed rules of conduct" to "a general flexible moral code"; from a "desirable goal or result that is indicated by injunctive vedic passages" and "that from which results happiness and final beautitude" to specific virtues like ahimsa (non-violence) and anrishansayam (non-cruelty).\(^1\) However, by the time of the Smritis and Arthashastra literature, its most prominent significance came to be the duties, obligations, and the rights of a man as a member of the four varnas in a particular stage of life. It is this sense that it is used in literature which is of interest to the students of political thought. For in this sense it divides society into the rulers and the ruled by a caste structure and provides powerful sanctions for the supremacy of the former over the latter. The brâhmins have the highest status and though they do not officiate as kings and rulers in general, they do have great political influence and power. Officially, they have

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\(^1\) Kane, History of Dharmasastra (Poona: Bhandarkar Oriental Institute, 1930, I, 1-3.)
the duties appropriate to a priestly class—study, and teaching, performance of and officiating in sacrifices, and giving and receiving gifts.  

The kshatriya, its status second only to the brāhmins, is the caste of the kings and rulers, warriors and administrators. Kautalya lists their functions as to engage in study, perform sacrifices and give gifts; their distinctive duties being occupation in the military, maintenance of law and administration of justice, protection to the subjects from inner disturbances as well as outer attacks. The next two castes, vaishyas and shudras, constitute the ruled classes. The vaishyas in common with the upper two castes may study, perform sacrifices, give gifts, but their distinctive duties are the non-political ones of engaging in agriculture, cattle breeding and trade. They are not expected to interfere with the ways in which a kingdom is ruled, nor to judge its administration: these are exclusively the functions of the brāhmins and the kshatriyas. The shudras are barred even from the

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3 Kautalya, loc. cit.

4 See, e.g. Manu, VIII, 410, "(The king) should order a Vaiśya to trade, to lend money, to cultivate the land, or to tend cattle, and a Śūdra to serve the twice-born castes."
Also cf. Derkmeier, Kingship and Community in Early India, (Stanford: Stanford University Press, 1962), p. 7. "In ancient India, the political was thought to be the province of one particular segment of society—a society broken into castes, for whom the idea of political competition would have been unthinkable."
study of the Vedas, the giving of gifts and the performance of sacrifices. Their primary duty along with agriculture, cattle breeding and trade is to serve the other three classes. Thus, in Manu's words, "(The king) should carefully compel Vaisyas and Sudras to perform the work (prescribed) for them; for if these two (castes) swerved from their duties, they would throw this (whole) world into confusion."5

Dharma, in this sense, serves as a legitimatizing concept. It defines which class shall have the executive power and which the non-executive though quite formidable political power. The natural question that arises at this point in the justification of the caste structure itself. Why should the brāhmins, kshatriyas, vaishyas and shudras have the status which they have? Whereas according to Kautalya, the duties of the various castes are determined according to the word of the Vedas;6 Manu subscribes to the view that the Lord Himself created the four castes from his mouth, his arms, his thighs and his feet respectively, and that "He, the most resplendent one, assigned separate (duties and) occupations to those who sprang from his mouth, arms, thighs and feet."7 Thus, the social order defined by the caste system is supposed to be supported by Divine Will,8 and the Vedas. Thus, in so far as the test of legitimacy is concerned, a ruler may pass it by merely showing that he is of

5 Manu, VIII, 418.
6 Kautalya, I, 3.
7 Manu, I, 31 and 87.
8 Also compare the Gītā, IV, 13, "The four-caste system was created by Me by the division of guna and karma. Although I am the of this, know Me as the imperishable non-doer."
kshatriya ancestry; no reference to the actual functioning of his
government, the quality of his administration etc., are, from this angle,
needed. This, however, would justify too much; a tyrant kshatriya ruler,
for example, could legitimately claim ungrudging obedience from his sub-
jects. The criteria of legitimacy obviously needs to be supplemented
here by substantive criteria. What then, justifies legitimate authority?

First of all, as the source of legitimacy, dharma and the social
structure defined by it, must be preserved.9 Our authors therefore, are
most emphatic about it. Manu declares that the king was created to
be the protector of the castes and orders, to make sure that the
different castes and orders, according to their rank, discharge their
several duties. Dharma, being preserved preserves, and being destroyed
it destroys. The king who preserves the purity of the castes and
prevents the intermixture, prospers in this world and even in the world
after.10 Kautalya, after stressing the importance of maintaining caste
distinctions declares that the king shall never allow people to swerve
from their respective caste duties, for by following these the people
achieve happiness here and hereafter.11 Offsprings born of mixed caste
must follow certain specified, generally lower kinds of occupations and
they must be governed with rigid rules which keep them away from the
mainstream of Aryan society. A king who forgets this will go to hell.12

9 Drekmeier, Kingship and Community, p. 9. "The preservation of
dharma was the major obligation of the state."

10 Manu, VII, 35, VIII, 15 and 172.

11 Kautalya, I, 3.

12 Ibid., III, 7 and 1.
It may be noted here that the concept of dharma as a source of legitimacy will be rendered useless if the purity of the castes is not preserved. Thus, both Kautalya and Manu insist strongly that a king should never allow intermingling of castes to happen.\footnote{In addition to the statements given above, see also Manu, VIII, 353; X, 61. Also compare the Gītā, I, 43-44.}

A more important reason is that a society structured in accordance with dharma represents to both Kautalya and Manu the best society for the attainment of those values which constitute the proper ends of government. These values are stability, harmony, freedom and justice as defined by one's position in life, rather than equality, liberty in general, mobility and egalitarian justice. They strove for a state of social equilibrium, a closeness which leaves little room for unrest and anarchy, rather than an openness and fluidness in the classes which carries with it a danger of troublesome questioning and possible unrest. As Drekmeier states, "Indian political philosophy is pre-occupied with the problem of order; it is a philosophy of caution, a warning against unfortunate consequences of any disturbance of tradition and the institutions in which it was embodied."\footnote{Drekmeier, Kingship and Community, pp. 7-8; also cf., "... Hindu political theory was essentially static, ... and (it) tends to exalt the status quo." P. 9.} The preferred values are achieved best in the society where the roles, ranks, duties and privileges are all well-defined and distributed in a relatively unchanging manner to its members from generation to generation. The concept of dharma describes exactly such a society; hence their insistence upon its preservation as the main justificatory value.
Finally, preservation of dharma is essential for individuals to realize moksha, which is the highest goal or value for man. It is the highest value since, in its attainment, man realizes his true self, which is transcendental. There is not much mention of moksha in the political literature for the simple reason that it cannot be the function of the state to make its citizens realize their transcendental self. That must be a concern of the individuals themselves: the state can only strive to provide the conditions which facilitate such a pursuit.

The second concept which finds prominent role in political justification has been described as "protection." As the account given below shows, it means the same kinds of things which we generally mean by security of life and property, and so fits in well with stability, harmony, etc., which are the values supported by dharma. "Protection" as a politically justificatory value emerges from the Hindu concept of the state of nature. It is commonly held in the Hindu political thought that the state of nature is characterized by anarchy and lawlessness, fear and insecurity, the role of brute force epitomized in the metaphor of the big fish swallowing the small, matsyanyaya. The Shantiparva, LXVII, describes the state of nature as one in which people cannot enjoy their wealth and prosperity, for of two men, the stronger robs the weaker of his possessions. The strong in turn is robbed by one stronger than him, or by two or three who have ganged up on him. Women are forcibly abducted. As a consequence of anarchy which is rampant, men meet with destruction devouring one another like the stronger fish devouring the
weaker ones in water. Political authority is created to avoid such consequences and to provide a minimum of safety and protection to men. This is the view of Manu and Kautalya as well as of the Mahābhārata. Thus, according to Manu, the creatures without a king lived in fear and had nowhere any security; then the Lord created a king for the protection of this whole creation. Kautalya states that Manu, the first king took upon himself the responsibility to bring an end to the state of matsyanyāya which prevailed at the time, and to protect the subjects. According to the Shantiparva tormented by such lawlessness, the people approached Brahma, the Progenitor and prayed for a king saying, "Without a king, O divine lord, we are going to destruction. Appoint someone as our king! All of us shall worship him and he shall protect us!" In the Prithu story of the origin of kingship, Ananga, the first to assume the role of the king, did so, in so far as he became the protector of the creatures. Again when the renowned Prithu asks for instruction from the Rishis with regard to kingly duties, he is instructed to protect by wielding punishment. But perhaps the most forceful linking of

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16 Manu, VII, 3.

17 Kautalya, I. 13. The Manu referred to here is the legendary Manu declared in some Hindu scriptures to be the first ruler of mankind. He is just not to be compared with the author of the Manusmṛiti.

18 Shanti, LXVII, 151.

19 Ibid., LIX, 131-132.
protection and kingship is to be found in Shanti LXVIII. It is worth quoting in length:

... It is through fear of the king only that men do not devour one another. It is the king that brings peace on earth, through due observances of duties... As, O king, all creatures become unable to see one another and sink in utter darkness if the sun and the moon do not arise, as fishes in shallow water and birds in a spot safe from danger dart and rove as they please (for a time) and repeatedly attack and grind one another with force and then meet with certain destruction, even so men sink in utter darkness and meet with destruction if they have no king to protect them. If the king did not exercise the duty of protection, the strong would forcibly appropriate the possessions of the weak... Nobody then, with reference to any article in his possession, would be able to say - This is mine - Wives, sons, food, and other kinds of property would not then exist. Ruin would overtake everything if the king did not exercise the duty of protection... If the king did not protect, all persons possessed of wealth would have to encounter death, confinement, and persecution, and the very idea of property would disappear. If the king did not protect, everything would be exterminated prematurely, and everybody would fall into terrible hell... In the absence of royal protection, all things, inspired with fear and anxiety and becoming senseless and uttering cries of woe, would meet with destruction in no time... 20

The women, children and the brāhmins, the orphans, the aged, the infirmed, the afflicted, the helpless, and the needy women are said to need special protection. 21 The slaves and the hirelings are to be protected against cruelty and harsh treatment. 22 People who mean harm to life and property of the citizens--thieves, robbers, cheats, crooks and

20 Italics in the original. Other references to "protection" as the duty of the king are to be found in Manu, VII, 88, 143-144, VIII, 304-309, IX, 256-262, 253-255; Kautalya, IV, 3-5, II, 1, 8, 34; III, 16; XIV, 3, IV, 8-9, 13, 11, etc.

21 Manu, IX, 232, Kautalya, II, 1.

22 Kautalya, II, 1.
murderers, are to be restrained. State officers who are corrupt, forgers, dishonest judges--such persons the king will discover with diligence and through various means including employment of spies, punish them severely.\textsuperscript{23} If the king or his officers fail to find the thieves and highwaymen, they will make good the loss to the people from their own purse, or king's treasury.\textsuperscript{24} A good ruler should be able to protect his people against natural calamities like floods, fires, famines, pestilential diseases, snakes, tigers and demons.\textsuperscript{25} At places he is enjoined to behave tenderly to the afflicted, the needy and his subjects in general as a father does towards his children.\textsuperscript{26} A king who does these things properly will, as the Hindu thinkers generally put it, prosper in this world and attain heaven after his death; but one who fails to protect his people will take the sin of his subjects upon himself and sink into hell.\textsuperscript{27}

Stability and harmony through maintaining the caste structure of the society (\textit{dharma}), and providing security and protection to the subjects are those core principal values which justify political authority. Now, the obligation to obey is but the other side of the coin, so one would expect that limits of political obligation will be defined in terms of these values. A king would then be deemed to be in

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\textsuperscript{23} \textit{Manu}, IX, 256-262, \textit{Kautalya}, IV, 4, 5; II, 8. \\
\textsuperscript{24} \textit{Kautalya}, III, 16; IV, 13. \\
\textsuperscript{25} \textit{Kautalya}, IV, 3. \\
\textsuperscript{26} \textit{Kautalya}, IV, 3, \textit{Manu}, VII, 80. \\
\textsuperscript{27} \textit{Manu}, VIII, 128-171, VIII, 304-309.
\end{flushleft}
legitimate authority only as long as he preserves these values and would forfeit any claim to obedience when he fails to do so.28 At first glance it seems that Manu and Kautalya, indeed, did draw such conclusions; thus, in Manu's words, such a king "... is a dead and not a living king."29 He who collects taxes from the people but fails to preserve dharma and bring protection misuses power, and such a ruler having forfeited all claims to obligation should be disposed of. But Manu and Kautalya only dimly see the consequences of their theory and even having seen them, fall short of openly accepting them. Distrustful of giving the right of disobedience to people, they not only want not to draw such conclusions but also by a barrage of statements about the divinity of the king, attempt to obscure them. Thus Manu speaks of the king as created out of divine elements and holds that even a child king should not be despised for he is of "Divine Lustre."30

28 Cf. John, W. Spellman, Political Theory of Ancient India, (Oxford: Clarendon Press, 1964) "We have no texts which give a reasoned argument with conclusions ... that the subjects had the right to revolt against tyrannical monarchs .... Yet, it is clear that the conditions under which revolution is allowed are those which arise when the king is not conforming to Dharma .... It was on these two grounds (failure to conform to dharma and provide protection) that many of our authors gave the moral right to revolution." P. 234. Italics mine. See also Drekmeyer, "Dharma stood above the king, and his failure to preserve it must accordingly have disastrous consequences." Kingship and Community, p. 10.

29 Manu, VII, 143.

30 Manu, VII, 4, 5 and 8.
The king is also compared to various gods in his various functions. According to Kautalya, the king, as one in whom the duties of both Indra and Yama are blended, ought not to be despised. But in spite of this attempt at obscurification, there is little doubt that the right to disobedience does follow from such a justification. The Mahabharata advocates that a king should be deserted like a leaky boat.

31 "Let the king emulate the energetic action of Indra, of the Sun, of the Wind, of Yama, of Varuna, of the Moon, of the Fire, and of the Earth. As Indra sends copious rain during the four months of the rainy season, even so let the king taking upon himself the office of Indra, shower benefits on his kingdom. As the Sun during eight months (imperceptibly) draws upon the water with his rays, even so let him gradually draw his taxes from his kingdom; for that is the office in which he resembles the Sun. As the Wind moves (everywhere), so entering in the shape of the vital air all created beings, even so let him penetrate (everywhere) through his spies; that is the office in which he resembles the Wind. As Yama at the appointed time subjects his rule to both friends and foes, even so all subjects must be controlled by the king; that is the office in which he resembles Yama . . . " etc. Manu, IX, 303-311.

32 Kautalya, I, 13. Spellman lists the following as gradations in the doctrine of divine kingship: (1) The king acts as a special concern of the gods; (2) being possessor of superhuman attributes and in his functions is aided by the gods; (3) the king achieves occasional divinity through sacrifices etc.; (4) the king resembles the gods in his functions; (5) the Institute of Kingship is divine; (6) the king incorporates particles of the gods; (7) the king is a divine regent; (8) the king claims descent from the gods; (9) righteous kings are divine; (10) all kings are divine; (11) the king is God; (12) God is king. Political Theory of Ancient India, p. 28. For an exhaustive treatment of this topic, see pp. 26-42.

33 "These six persons should be avoided like a leaky boat on the sea, viz., a preceptor that does not speak, a priest that has not studied the scriptures, a king that does not grant protection . . . " etc. Shanti, 57, 44-47. Again, "Similarly, what need is there for a king that is not competent to grant protection? As an elephant made of wood, or a deer made of leather, as a person without wealth, or one that is a eunuch, or a field that is sterile, even so is a Brahmana that is void of Vedic lore and a king incapable of granting protection." Shanti, LXXVIII, 179. Italics mine.
or killed like a mad dog. Similar views are expressed in the Shukraniti. Altekar lists threat of wholesale migration, dethronement, and tyrannicide as recommended actions against an oppressive ruler. Spellman holds the same view on the subject. However, though they failed to draw these logical conclusions from their doctrines, they did try to minimize the possibility of tyrannical use of power through a variety of checks on the ruler's powers.

First the king is advised to be extremely sensitive to public opinion. The king should not hesitate in winning it by conciliation, gifts, etc. Fulfilling his promises to them, he should show respect for their religious and other sentiments and please them with gifts of land, money and remission of taxes. He goes so far as to say that a diseased king is better than a new king because the latter is likely to disregard public opinion and, if pressed, tolerate the oppression of the

34 "The king who tells (his people) that he is their protector but does not protect them, should be slain by his combined subjects like a mad dog." Mahabharata, XIII, 96, 25, translated from Sanskrit. Quoted by Altekar, State and Government in Ancient India, (Delhi, Motilal Banarsidass, 1958), p. 73.


36 See Ancient India, p. 101.

37 Spellman, Political Theory, pp. 238-293.

38 Kautalya, I, 13.

39 Kautalya, XIII, 5.
people.  Kautalya declares that for a king to engage in an act which excites popular fury is unrighteous. This is not an advocacy of popular uprising, but only a moral injunction for him not to displease people.

Secondly, the extremely influential brahmīn class constitutes a considerable check on the king's power. One major source of the power of the brahmīns class is its knowledge of the Vedas. As "possessors" of the Vedas, it is the brahmīns who have the authority to interpret dharma, old customs, laws of castes and guilds, etc. It is from brahmīns that all men on earth learn their several usages; they are the "lord" of the creation, a "great divinity," and must be given high privileges over all the rest. Thus, the king who preserves dharma as the major justificatory value, must look to the brahmīns for its interpretation. The king should be modest and humble before the brahmīns. He is advised to consult the brahmīns on important public matters. Even in deepest distress, the king is not to provoke the brahmīns to anger, for then anger can destroy everything in this world. The Kshatriyas are said to emerge from the brahmīns, without whom they cannot

40 Kautalya, VIII, 2.
41 Kautalya, V, 6.
42 Cf. "As the Brāhma sprang from (Brāhman's) mouth, as he was the first-born, and as he possesses the Veda, he is by right the lord of this whole creation." (Manu, I, 93)
44 Manu, VII, 39, 58, 59.
45 Manu, IX, 313.
prosper. Manu says in clear terms that if the kshatriyas become overbearing, "the brāhmīns themselves shall duly restrain them."\(^{46}\)

A third major check against misuse of executive power is the double-edged nature of danda. Danda literally means "rod" (of punishment) and is considered to be the chief instrument in the hands of the king by which he fulfills his functions. Manu speaks eulogizingly of it as "the protector of all creatures, (an incarnation) of the law, formed of Brāhman's glory."\(^{47}\) It is danda which governs all things and keeps the whole world in order.\(^{48}\) Without its use there would be anarchy and lawlessness and the state of matsyanyāya in which the stronger would subdue the weaker.\(^{49}\) Kautalya also says, "It is danda and danda alone which exercised by the king with impartiality and in proportion to guilt . . . maintains both this world and the next.\(^{50}\)

However, when danda is administered ruthlessly, in defiance of the sacred law improperly, it would strike down the king himself.\(^{51}\) A king who swerves from his duty and mishandles his power, is said to bring destruction not only upon himself but also upon his relatives, castles and territories.\(^{52}\) Thus, on the one hand, the use of coercive power is

\(^{46}\) Manu, IX, 320.
\(^{47}\) Manu, VII, 14.
\(^{48}\) Manu, VII, 17, 18, 22.
\(^{49}\) Manu, VII, 20.
\(^{50}\) Kautalya, III, 1.
\(^{51}\) Manu, VII, 19.
\(^{52}\) Ibid., VII, 27-29.
necessary; without it, given human nature and the kind of world we inhabit, there would be utter confusion and anarchy. But at the same time, it must be used only within the limits set by the "sacred law," "ancient law," the Vedic teachings. The metaphysical beliefs limit the extent to which political authority is to be exercised.

Another check related to the above is the emphasis on the moral qualities of the ruler. Danda being such a powerful weapon, can be used properly only by a man who is wise, knows the respective value of virtue, pleasure and wealth; and is truthful, pure and properly disciplined.53 A king who is addicted to sensuous pleasures, is greedy, foolish, undiscerning, selfish, immoral, is likely to be negligent of public welfare, and protection of the sacred law. Thus, preparation for kingship included rigorous character training and discipline. Since this involved the modification of the person himself, such a check was considered more effective than the formal constitutional ones.54

Finally there are powerful spiritual sanctions against abuse of power. As Spellman says, "... The wicked king was to be punished severely in a religious or spiritual manner."55 The ruler who acted contrary to dharma would lose before long, his kingdom, forts, castles, and after death would sink into hell; also one-sixth of the spiritual demerit of his subjects would accrue to such a ruler.56 The ancient law of

53 Ibid., VII, 26, 30, 31.
54 Cf. Drekmeier, Kingship and Community, p. 258.
55 Spellman, Political Theory, p. 229.
karma,\textsuperscript{57} is brought to operate here. A king acquired his kingdom through good karma; by the same token, if he acts unrighteously, he will surely lose it and bring destruction upon himself. Thus in \textit{Shanti}, it is stated, "Of deceitful conduct, such a person (a kshatriya) is said to slay his own self. . . . Disbelieving in virtue, he at last meets with destruction. . . . Soon, . . . he disappears like a tree on the riverside washed away with its very roots."\textsuperscript{58} Manu expresses similar views.\textsuperscript{59} Thus, to sum up, though no strong institutional agencies are presented as a bulwark against arbitrary and unjust rule, strong spiritual and moral sanctions are given a prominent role in its place. Education, moral training, humility, modesty, a respectful attitude towards the brahmins, the fear of danda which in the case of an unjust ruler strikes back and the operation of inexorable law of karma--these, when operative may well have proved to be much stronger though subtler checks than legal or constitutional recognition of the rights of the people.\textsuperscript{60}

\textsuperscript{57} This concept is explained below. See p. 55.

\textsuperscript{58} \textit{Shanti}, XCV.

\textsuperscript{59} \textit{Manu}, VII, 111-112.

\textsuperscript{60} Cf. A. S. Altekar, "Religious and spiritual sanctions had the greatest terror in ancient India and our constitutional writers have made full use of them in order to curb the tyrannical tendency." \textit{Ancient India}, p. 99.

Also, Drekmeier, "Though there was no constitutional restraint on the Hindu king, the dharmic code must have served as a powerful check on his conduct in office." \textit{Kingship and Community}, p. 249. See also p. 256.

Also Spellman, "We believe that the kings of ancient India were very susceptible to these threats of theological punishments. . . ." \textit{Political Theory}, p. 230.

Basham lists the curbing influences of the brahmins, supremacy of dharma, the counsel of ministers and public opinion as the checks on the king's power. \textit{The Wonder That Was India} (New York: Grove Press, 1954), p. 87.
In fact, as defenders of the caste system according to which it is proper that the lower castes be ruled by the higher, Manu and Kautalya could not have granted any rights to the former as against the latter. That would have been contrary to dharma, and perhaps even against the universal law of justice. For, everyone occupies his place in society in accordance with the merits or demerits of his own past karma. Thus, it is a common feature of all the principal checks mentioned, viz. the restraining power of the brāhmīns, spiritual sanctions against misuse of kshatriya power, high moral character of the kings; that they emerge within the upper two classes.

A further dimension of justification is provided by theories of the origin of kingship. There are mainly two such theories in Hindu thought. One is, no doubt, a theory of "divine origin" or "appointment." It is difficult, however, to label the second precisely, considering the form in which it is found in the Vedic literature or in Kautalya and Manu. Some authors, prominent among them Jayaswal, have held that kingship was elective in its origin and, moreover, that "... the first king was elected on certain conditions or on a contract, and that original contract was always enforced subsequently."\(^{61}\) Jagdish P. Sharma cites, in addition to Jayaswal, Bloomfield, Weber, Majumdar, Zimmer, Shama Sastri as subscribing to the elective origin theory,\(^{62}\) presumably along with the belief in the contractual basis of kingship. However, after a


careful study of all the Vedic passages which are brought in as evidence for the elective theory, and having noted the lack of any mention of an electoral contest, Dr. Sharma observes that, "The traditions preserved in the Aitareya Brāhmaṇa, the Arthasastra, and the Mahābhārata . . . refer to this kind of selection or choice as we have indicated, and not to election as such." In keeping with this, recent scholars generally exercise caution in describing it as a theory of elective origin or contract which is generally linked with it. Drekmeier, for example, talks of the "hint of the contractual theory," and observes that, "The state was rationalized in terms suggesting a compact," and so on. Spellman believes that we are justified in saying that, " . . . in embryonic form, at least, the concept (of social contract) did exist . . . " and "At the same time it is fair to say that it contains a number of the aspects of that (social contract) theory and may be considered as a further embryonic development." It would seem then, that at most one can talk only of a crude and undeveloped theory of social contract.

A reference to it is found in the Aitareya Brāhmaṇa. In the fight between the gods and demons, the gods attributed their defeat to the fact that they were kingless. So they proposed to make Soma their king and when all consented to that, they followed this proposal.  

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63 Sharma, ibid., pp. 25-26. Also see Spellman, Political Theory, p. 52.  
64 Drekmeier, Kingship and Community, p. 245. Italics mine.  
65 Spellman, Political Theory, pp. 20, 21.  
66 Aitreya Brāhmaṇa, I, 14; The Sacred Books of the East.
Brāhmaṇa, VIII, 12, and Satapatha Brāhmaṇa, III, 4, 2,\textsuperscript{67} also contain similar accounts of the selection of the king.

In Shāntiparva, Bhishma, after describing the wretchedness of living in anarchy where no one could enjoy his wealth or wife, narrates how in those days people tried to ward off such a state of mātsyānyāya by making a certain compact to caste off the trouble makers. This was an attempt to bring order and peace without investing authority in some one person. This experiment, however, failed and they approached the Grand-sire, (Brāhma, the God of creation) saying--"Without a king, O divine lord, we are going to destruction. Appoint someone as our king! All of us shall worship him and he shall protect us!" Brāhma advised Manu to assume the office, but the latter expressed doubt and skepticism. How is one to rule effectively and honestly creatures of the earth who are past masters in cheating, lying, treachery and deception? The people assured him cooperation and obedience, promised to send their arms-bearing men with him when he undertook to supress the wicked, and further promised him one-tenth of their grain and one-fiftieth of their precious metals.

\textsuperscript{67} "When the gods had performed the guest-offering, discord befell them. They separated into four different parties, unwilling to yield to each other excellence. . . . When they were separated, the Asura-Rakshas came after them and entered between them. They became aware of it,--'Forsooth, we are in evil plight, the Asura-Rakshas have come in between us; we shall fall a prey to our enemies. Let us come to an agreement and yield to the excellence of one of us! They yielded to the excellence of Indra; Wherefore it is said, 'Indra is all the deities, the gods have Indra for their chief! . . . The gods laid down together their favorite forms and desirable powers, one after another, and said: Thereby he shall be away from us, he shall besattered to the winds, whatsoever shall transgress this (covenant) of ours! . . . "" The Shātapatha Brāhmaṇa, III, 4, 2, S. B. E., Vol. XXVI, 93-94.
and animals. Thus reassured Manu accepted the offer, assumed power, punished the wicked, established law and order and set people to their respective duties.  

Kautalya refers to it in I, 13. In the old days when there was no king, Matsyanāya prevailed on earth, a state of disorder and anarchy in which nobody could feel secure or happy. In order to put an end to such a state of affairs, the people elected a king, agreed to pay him one-tenth the merchandise and one-sixth of the grain, in return for peace and order. It is hard to say whether Kautalya seriously believed in the theory of king's election or whether he accepted as a useful myth with which to silence the skeptical.  

The theory in its various versions reflects the Hindu view that strong central authority is necessary as a safeguard against anarchy. Mutual compact to deal with the state of nature without such a central power fails to end the inconveniences created by matsyanāya. It takes a cynical view of human nature, and places a heavy reliance on danda (coercion). Secondly, we cannot justifiably say that this theory represents an attempt to base authority on the consent of the people. The concept of "consent," as in Locke's theory, is brought in to deal with some awkward questions raised by "fairness" criteria of political justification.  

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68 Shanti, LXVII, 151-152.

69 Kautalya's account of it is followed immediately by the statement, "Thus treacherous opponents of sovereignty shall be silenced."

70 See Ch. IV, below.
political obligation. There is no evidence that considerations of this kind played any noteworthy role in the various versions in which this theory is found in Hindu literature. It is the practical considerations which are paramount. Protection of the subjects by the king is to be rewarded by one-sixth in taxes, able men for an army and so on. What we have here, at most, is the idea that for the services he renders the king receives wages. This is far from a theory of consent which seeks to find amoral basis for political obligation in the consent of the people.

The view that kingship in one form or other is divine in origin has also a respectable history in ancient Indian thought. There is evidence that the theory in germinal form at least was present in the Vedic literature. In the Satapatha Brahmana for example, the king is referred to as "He, the Rajanya, is most manifestly of prajapati (the Lord of creatures)."\textsuperscript{71}

In Santiparva LIX we have a theory of the origin of kingship which is different from the one mentioned above and which ascribes divinity to the king in an interesting manner. First, men lived in peace, protecting each other. But then began error and through a chain of progressing vices--covetousness, lust, wrath, and sexual indulgence, the distinction between virtue and vice disappeared, and with that the Vedas and righteousness. Horrified at such a sorry state of affairs, the gods approached Vishnu and said to him--"Indicate, O God, that among mortals who deserves to have superiority over the rest!" It is significant to note that after reflection Vishnu rather than choosing one amongst the

\textsuperscript{71} Satapatha, S. B. E., Vol. XLI, 25.
mortals, created "a son of his own energy," and asked him to be the king. The latter, however, had no such desire, nor was his son or grandson disposed to such activity. His great-grandson at last took upon himself the duties of a king and protected the people. In this line was born Vena, a wicked king, who was finally killed by the Rishis and sages. From his right arm was born Prithu, resplendent and of noble mind. On his requesting the Rishis to instruct him on the duties of the king, the latter enjoined upon him the duties of protecting the people, preserving the caste structure, honouring the brāhmins and following righteousness. Prithu performed his functions nobly and ruled as an honoured king. 72

The divinity of the king was further enhanced when, in consequence of his penances, the god Vishnu himself is said to have entered his body. 73

Shāntiparva LXVIII warns that "no one should disregard the king by taking him for a man, for he is really a high divinity in human form."

Further he takes the form of Agni when he burns with his fierce energy the offenders, of Aditya when he observes the acts of all and does what is for the general good, and so on.

According to Shānti LXXII, "The king is Indra. The king is Yama. The king is Dharma. The king assumes different forms," and "dispells the fear of men" and protects the lives of men. Coming back to Manu, he holds that the king is created of divine elements and that he combines in himself divine functions. 74

In VII, 8 the divinity of the king is advanced

72 P. C. Roy, tr., The Mahābhārata, p. 132.
73 Shānti, p. 133.
74 Manu, VII, 7; IX, 303-311.
as a reason for not despising the king. Even Kautalya, in the same passage in which he refers to the elective origin of kingship, also speaks of the divine functions of the king.

It may be noted, however, that though the view that kingship was in some way associated with divinity was widely prevalent, it was not advanced as an adequate ground for political obligation. If divinity were the ground, then the functions, duties and qualities of the king would in an important sense be irrelevant. There is no evidence that this was the case. Thus, Vena, who is said to be of divine descendants, when gone astray is killed, and the act is recorded approvingly. Prithu who emerges from the arm of this dying king commands obedience because he follows the advice of the sages and the Rishis, has control over his senses and performs austerities. This becomes clearer from the fact that almost all the Hindu thinkers recommend desertion of the king who fails to provide protection and maintain the caste order. The fact that these kings are supposedly born of gods etc. does not prevent others from comparing them to a "leaky boat" or "a mad dog." Thus the doctrine of the king, though buttressing the authority of a rightful ruler, provides no haven to a tyrant. It is not the crucial factor in the legitimatizing of a regime.

In keeping with the remarks made above, no thinker derives from the divinity theory any theory of the divine rights of the king. In Drekmeier's words, "... the Hindu king never enjoyed the immunities that accompanied the European concept of the divine right of kings...."
Never was the Hindu king vested with divine right."75 If the king was
divine, dharma was even more divine and the king could not do anything in
transgression of it. As Spellman notes, a Brāhmin, a cow, fire, gold,
clarified butter, the sun and the waters were listed as divine, with the
king as the eighth on the list.76 Basham notes that "Divinity was cheap
in ancient India."77 Thus, regardless of the pronounced divinity of the
king, Kautalya speaks of him as a paid servant and Manu of taxes as his
wages. Ascription of divinity to a wide range of objects, and men, the
greater divinity of the brāhmins and of dharma, the double-edged nature
of danda, the moral and spiritual sanctions and the inexorable law of
karma, factors such as these seem to have suppressed effectively any
attempts to formulate divine right of kings.

We are now in a position to consider the question of the source of the
justificatory values. Of the metaphysical-religious views, those on
human nature, the state of nature, and the law of karma play a signifi-
cant role. We have already noted the matsyanyāya character of the state
of nature. In keeping with it they do not hold a flattering view of
human nature either. Here, there are no noble savages with hearts over-
flowing with sympathy and benevolence, living a life of happy innocence,
peace and bliss until it is broken by an act of ungodly disobedience and
consequent guilt. Nor is it a life of primitive simplicity and innocent

75 Drekmeier, Kingship and Community, pp. 250-251.

76 Spellman, Political Theory, p. 40. Also cf. "With so many other
persons considered divine, it would be remarkable if the king were not." P. 42.

77 Basham, The Wonder That Was India, p. 86.
joy destroyed by later connivances such as the institution of property or the evils of arts and sciences. On the contrary, the picture painted here resembles that of Hobbes. The state of nature is characterized by the Hindu thinkers as one of fear, insecurity, lawlessness, anarchy, and the rule of brute force, a picture quite at variance from a "basically noble or good" view of human nature. The insistence on harsh use of danda is in line with and confirms this bleak picture of human nature.

To Manu danda is the essence of government, it alone governs and protects. "The whole world is kept in order by danda. In it a pure man is hard to find." Not love, or respect, or kindness, but fear alone goads men to action. In fact, this holds good for not only men, but also for insects, birds, and even gods. The long list of precautions which the king must take, the open advocation of spies, fraud, deceit, lying, black magic, mistrust, by Kautalya show clearly that he thinks of the rulers and the ruled alike as basically self-aggrandizing beings in conflict with each other for the goods of life. Such a view of human nature was also instrumental in their awarding an extended sphere within which the government may interfere. Thus, other than meddling with the caste


79 In the Shānti, 57, when solicited by the Grandshire, to become acting ruler over men, Manu refuses saying, "I fear all sinful acts. To govern a kingdom is exceedingly difficult, especially among men who are always false and deceitful in their behavior." (This Manu is not to be confused with Manu of the Manusmriti.)

80 Manu, VII, 22.

81 Ibid., VII, 15, 23.
structure, which as shown above would be to invite self-destruction, the ruler's interference in almost all activities of life is expected. The king's men can hold and interrogate people who just happen to be walking alone at night, those who look strange, those who look disguised, anybody who looks suspicious in the least. There are to be spies everywhere in the bars, gardens, marketplaces, shops, temples, highways . . . in the garb of thieves, robbers, dacoits, as well as ascetics and holy men.82 From such views of men and the state of nature, the emphasis on survival, security, stability, etc. through a tightly closed and stratified society follows.

The justification for such a highly structured and inegalitarian social order as the caste system, lies in the doctrine of karma and rebirth which forms one of the fundamental metaphysical-religious beliefs of Hinduism.

Karma literally means "work," "action." The doctrine, however, refers more to the after effects—psychological and moral, of actions more than to the actions themselves. On the psychological plane, each action produces impressions (sanskāras) in the agent. Though not strictly determining the future actions of the individual, these impressions do mold his behavior considerably. In any case, they incline the agent towards certain actions, without strictly determining him, much the same way as habits do. The determining efficacy of these sanskāras is not exhausted in one's single life. So that what one is is largely due to what one has done in the past over many lives. In its moral aspect, and it is in this

82 Kautalya, IV, 61-63, I, 11, 12.
respect that it is of particular interest to us, the law of *karma* may be taken as an extension of the principle of cause and effect to the moral realm. Every action must necessarily produce its effect, rewards or punishments, depending on whether the action is good or bad. The rewards and punishments not necessarily worked in the span of a single life, but extend to ceaseless births and rebirths. Thus, birth in a *brahmin*, *kshatriya* or *shudra* caste etc., is not an accidental thing, but is necessitated by the past deeds of the agent. Caste structure, thus, is

83 See for example, Manu, XII, 3, "Action, which springs from the mind, from speech, and from the body, produces either good or evil results; by action are caused the (various) conditions of men, the highest, the middling, and the lowest," and XII, 81, "But with whatever disposition of mind (a man) performs any act, he reaps its result in a (future) body endowed with the same quality." Also see the *Gita*, III, 9, "This world is in bondage to *karma*, unless *karma* is performed for the sake of sacrifice. For the sake of that, O son of Kunti, perform thy action free from attachment," and VI, 44, "By his former practice he is carried along helplessly. Even he who (merely) wishes to know of yoga goes beyond the rules of the Veda." Also compare the *Gita*, VIII, 16, III, 17-18.

84 See for example, the *Gita*, IV, 13. In VI, 41-42, birth in a noble prosperous family is linked to the good deeds of past life. A detailed description of the kinds of births men are born into as a result of their actions is to be found in Manu, XII, 9-82. To note a few, "Kings and Kshatriyas, the domestic priests of kings, and those who delight in the warfare of disputations (constitutes) the middling (rank of the) states caused by Activity." (XII, 46), "Hermits, ascetics, Brāhmans, the crowd of the Vaimanika deities, the lunar mansions, and the Daityas (form) the first (and lowest rank of the) existences caused by Goodness." (XII, 48), "Ghallas, Mallas, Nazas, men who subsist by despicable occupation and those addicted to gambling and drinking (form) the lowest (order of) conditions caused by Activity." (XII, 45).

Also see cf. V. P. Varma, "The Law of Karma regulates the present status and the future rebirths of an individual. . . . One person is a king and the other a slave because they performed deeds in their past lives leading to kingship or to slavery." Hindu Political Thought (Delhi etc.: Motilal Banarsidass), 2nd ed., p. 195.

Also see Spellman, Political Theory, pp. 230-231.
becomes an instrument for the fulfillment of moral law and inexorable justice. Not preserving the caste rules would be tantamount to hindering the fulfillment of cosmic moral law. Thus, in Eliot Deutsch's words, "Karma has served, and continues to serve, as a sanction for the caste system." 85

Before we close this chapter, an observation about the partisan character of Manu's and Kautalya's writing seems pertinent. It would not be an exaggeration to say that both Manu and Kautalya seem to be writing from the point of view of, and to consolidate the interests of the ruling castes. The ideal society they defend is one in which "rulers rule and the slaves slave." The vaisyās and the shudras work, toil, produce, carry on trade and commerce, support the state, but have little political say. It is the brāhmīns and the kshatriyās who make decisions, distribute goods and enjoy privileges. Since most crucial to the ruling class is the maintenance of the existing social order, which gives them this status in the first place; strong sanctions against any loosening of caste structure are advocated. An intermingling of castes we are told will be the very end of this world. 86 The brāhmīns and the kshatriyās are also urged to avoid dissensions among themselves, and must cooperate with each other to keep their privileged positions. For the privileges, respect and honor which the brāhmīns enjoy, they create around the ruler


86 Manu, VIII, 353.
a halo of divinity and godliness, propound doctrines of ungirding obedience to the king and give powerful priestly support against possible uprising from the ruled classes. Also to serve such purposes is propounded the myth that the existing social order is of divine origin, is sanctioned by the Vedas. As such, practical experience of misery and exploitation notwithstanding, by accepting the position accorded to one by one's birth, however low it might be doing the duty assigned to one, one will find happiness in this world and heaven in the next.

The same conclusion is supported by their defence of what may be called "discriminatory justice." Justice is to be dispensed on the basis of the caste of the accused and the plaintiff. Needless to say, it generally favors the caste with high status over the lower ones. Thus while kshatriya having defamed a brahmin, shall be fined one hundred panas, a vaishya for the same crime shall pay one hundred and fifty whereas a shudra shall suffer corporeal punishment. If a brahmin defames a kshatriya, he shall pay only fifty panas, if the person defamed belongs to the vaishya caste, the fine shall be further reduced to twenty five panas and in the case of a shudra merely twelve. The shudras in general suffer the harshest punishments. If he insults a twice-born man with gross invective, he shall have his tongue cut out for "he is of low origin." Manu's contempt for the shudras is ill concealed. Perhaps the strongest statement against the shudras is the following, "If he mentions the names and castes of the (twice-born) with contumely, an iron

87 Manu, VIII, 268-269. Also see VIII, 88, 123.
88 Ibid., VIII, 270-271.
nail, ten fingers long, shall be thrust redhot into his mouth."\textsuperscript{89}

Although such harsh treatment is absent in Kautalya's thought, the discriminatory tendencies are evident. The fine imposed for abusing shall, as in Manu depend upon who defames whom, being the highest for a \textit{shudra} abusing a \textit{brahmin} and the lowest in the reverse case.\textsuperscript{90} Similarly, he who causes a \textit{brahmin} to partake of prohibited food or drink shall be punished with the highest amercement. For the same offense done to a \textit{kshatriya}, the punishment shall be middlemost and so on.\textsuperscript{91}

\textsuperscript{89} Ibid. Also see VIII, 279-283.

\textsuperscript{90} Kautalya, III, 18.

\textsuperscript{91} Ibid., IV, 3.
CHAPTER III
JUSTIFICATION OF POLITICAL AUTHORITY
IN CONFUCIUS AND MENCUIS

Whether a particular kind of justification of political authority is accepted or not depends largely on the general prevalent beliefs about the nature of the universe, social structure, man's nature and his destiny and the like. The Hindu view of society as divided into four castes with each caste having its distinct duties and privileges is, for example, essential to Kautalya's and Manu's way of justifying the overall power of the kshatriya rulers and a kind of supervising influence of the priestly caste of the brahmins. So strong is the hold of the sanctity of caste, that the preservation of each caste's purity occupies an exalted place in the functions of the government. Again their pessimistic and Hobbesian views on human nature and the state of nature lead them, understandably, to an advocacy of concentration and harsh use of coercive power of the state. In this chapter we will turn to the Sage of China, Confucius, and his most illustrius disciple, Mencius, and place their theory of justification within their general value-orientation and the broader beliefs about society and the universe.

Perhaps the most important concept in the understanding of the Confucian view of society is that of li. The broad usage of the term ranges from "sacrifices," "ritual," "rites" to "rules of propriety" and a social code of conduct appropriate to the station and role of the individual. What it essentially signifies is the strong Confucian belief that each person in society has a definite station to occupy depending on his birth, qualifications and virtue and that there are specific duties,
responsibilities and privileges which go with it. Appropriate to each station of life is a certain code of conduct and certain kinds of attitudes. This applies to the king who is at the top of the socio-political order, as well as to those who are at the bottom. The distinctions between the high and the low, inferiors and the superiors, the "gentlemen" and the mere commoners must be preserved and not allowed to blur. This provides us with one dimension of justification. From the fact that there are the high and the low, the superiors and the inferiors, the next step is easily the justification of the rule of the former over the latter. Thus Confucius speaks of the Gentlemen (chun tzus--also translated as the superior men) as the natural leaders of the people.¹ Their essence is that of the wind compared to the commoners whose essence is that of the grass. When the wind blows the grass cannot but choose to bend.² These distinctions, however, are not based merely on birth. What sets the superior men apart from the commoners is not so much birth in a particular class as their virtue, the moral excellence they have obtained. This brings us to the question of what this virtue or moral excellence consists in. However, for the moment we will refrain from discussing it here since the same is done below in the context of Tien Ming or the Mandate of Heaven.

It is through the concept of Heaven and its mandate that the primary Confucian values are brought to play a central role in the theory


² Ibid., XII, 19. Also W. A. C. Dobson, translator and annotator, Mencius (University of Toronto Press, 1963), 1, 28. (5A. 2, Harvard-Yanching text number).
of political justification. Confucius and Mencius particularly meant a
number of things by "Heaven." In line with the traditional view, Heaven
is spoken of as the Creator of creatures and the ordainer of the laws
that govern them. Thus, Mencius quotes approvingly from The Book of
Songs, "Heaven gave birth to all mankind/ Gave them life and gave them
laws."³ And in 3. 7, he says, "When Heaven begat our people (Heaven
ordained that) those who already know should teach those who are yet to
know."⁴

At other places "Heaven" seems to carry the connotations of
Destiny or Fate of that which is beyond human control, of something pre­
determined from above. The superior man is counseled to do good and
leave the rest to Heaven and acquiesce in the consequences--favourable or
otherwise. Thus, hearing that Duke P'ing of Lu was not to visit him,
Mencius remarked that his (Mencius') making progress or not in the pur­
suit of the Way did not depend on the will of man but that of Heaven. It
was decreed by Heaven that he should not see the Duke of Lu.⁵ To Duke
Wen of T'eng, who was worried about the city of Ch'i which was in danger
of being surrounded and possibly ravaged by the enemy, Mencius advised
that the success of even a noble endeavor rested upon Heaven and that he
should go do the good that is in his power and leave the rest.⁶ The

³ Dobson, Mencius, 4. 11 (6A. 6).
⁴ Ibid., 3. 7 (5A. 7).
⁵ Ibid., 1. 35 (1B. 16).
⁶ Ibid., 1. 31 (1B. 14).
implications of a Fate which controls the results and which is beyond our power are clear.

But most important for our purposes is the personalistic concept of Heaven, who depending on the merits or demerits of a ruler gives or withholds its mandate. Attaining the Heavenly ming is to lay the strongest foundations for the legitimacy of a regime. The three basic facts about Heavenly ming are:

1) It is not unchangeable. It is given to some rulers and withheld from the others. Also the fact that a ruler obtains it does not necessarily mean that he has attained it forever, for himself or for his descendants.

2) The getting or not getting of Heavenly ming depends upon whether the ruler has cultivated virtue or not. He must exhibit certain moral qualities and follow the principles of Benevolent Government to obtain it.

3) It is necessary that the ruler continue cultivating virtue, and following the Principles of Benevolent Government in order to retain the Heavenly ming. 7

The doctrine of Heavenly ming, thus, focuses on the ruler and points to the necessity of his being a paragon of virtue. His virtue must be beyond doubt and his conduct immaculate, for being at the top he is the one who set the trend. His example counts the most. Here we

touch one of the very central beliefs of early Confucian thought and may be understood in terms of "the stone in the pool" model. A stone thrown in the center of the pool spreads waves around it, the expanse of the waves is determined by the weight of the stone. The ruler is at the very center of the socio-political order and is the model for people's imitation. If he is upright, virtuous, a follower of the ritual and the principles of Benevolent Government, his ministers and all the officials down to the lowest rank will also be upright etc. Thus, the ruler with moral force is likened to the pole star which remains constant while all the other revolve around it. The impact created by a good ruler is soon felt. Within a single generation Goodness prevails in the state. In Mencius' words:

If the prince is a man of Humanity, then nothing in his state but will be humane. If the prince is a man of Justice, then nothing in his state but will be Just. If the prince is a man of rectitude, then nothing in his state but will be upright.

Unless the ruler is right and just and humane, he cannot expect the others in his state to be right and just. And unless the people are right and just, there would be no peace, prosperity, stability or harmony--which are the values defined by li.

9 Ibid.,
10 Dobson, Mencius, 6. 8 (4A. 21). Also see Waley, op. cit., XIII, 6.
This brings us to a point touched earlier, namely, the moral qualities which set the superior men apart from the commoners and which the ruler must cultivate. What then are these qualities, and what are the principles of Benevolent Government which he must follow to keep the trust of Heaven? How do we know the will of Heaven and what kind of action is sanctioned against a ruler who fails to keep to the path of virtue and thus loses the mandate of Heaven? To these questions we must turn now.

As to the moral qualities, at places almost every quality which we ordinarily deem desirable is enumerated. Thus one list includes quickness of apprehension, intelligence, insight and wisdom, magnamity, generosity, benignty, tenderness, vigour, strength, firmness, resolution, orderliness, seriousness, adherence to the Mean, correctness, pattern, order, refinement and penetration. The list is obviously too general, but we may notice those which receive special emphasis. To say that jen is one such is to understate the facts. Jen pervades the Confucian literature as no other term does, and at the same time has acquired a variety of meanings. As a particular virtue it is generally listed along with wisdom, courage and propriety and means more or less "benevolence," "human-heartedness." Confucius, however, treated it as a more general virtue, one which includes and presupposes all other particular virtues. As such, it is best translated as "Goodness." In


13 Waley, op. cit., IV, 2; VI, 21; IX, 28.
this sense it includes courage,\textsuperscript{14} propriety,\textsuperscript{15} filial piety.\textsuperscript{16} It requires the practice of courtesy, generosity, good faith, diligence and clemency.\textsuperscript{17} It lies at the root of all other virtues, without it they are hollow,\textsuperscript{18} so that it points to the inner spirit of being moral, the external manifestations apart. But \textit{jen} as the sum of all virtues, or as equivalent of "morality" or "Goodness" itself is obviously too general to add anything new to our ethical understanding. Looking for some concrete manifestation of it, we find it in Confucius' remarks that the man of \textit{jen} loves men.\textsuperscript{19} This love expresses itself in his not doing to others what he does not wish to be done by them,\textsuperscript{20} and wishing for other what he wishes for himself.\textsuperscript{21} There has been a great controversy as to whether love preached by Confucius and Mencius is universal love or love with distinctions. We know that Mencius criticized the Mohists' doctrine of

\begin{itemize}
  \item \textsuperscript{14} \textit{Ibid.}, XIII, 5.
  \item \textsuperscript{15} \textit{Ibid.}, XII, 1.
  \item \textsuperscript{16} \textit{Ibid.}, XVII, 21.
  \item \textsuperscript{17} \textit{Ibid.}, XVII, 6.
  \item \textsuperscript{18} \textit{Ibid.}, III, 3.
  \item \textsuperscript{19} \textit{Ibid.}, XII, 22.
  \item \textsuperscript{20} \textit{Ibid.}, XV, 23. "Tzu-king asked saying, Is there any single saying that one can act upon all day and every day? The Master said, Perhaps the saying about consideration: Never do to others what you would not like them to do to you."
  \item \textsuperscript{21} \textit{Ibid.}, VI, 28. "As for Goodness--you yourself desire rank and standing; then help others to get rank and standing. You want to turn your own merits to account; then help others to turn theirs to account--in fact, the ability to take one's own feelings as a guide--that is the sort of thing that lies in the direction of Goodness \textit{[jen]}."
\end{itemize}
universal love as something contrary to human nature and there are numerous passages both in Confucius and Mencius which emphasize particularistic love. Thus proper behavior towards parents and elder brothers is said to be the "trunk of Jen." Again love for parents and affection towards relatives are said to be the essence of jen by Mencius in IVA, 27; VIB, 3; VIIA, 15. Wing-Tsit Chan, in an article, "The Evolution of The Confucian Concept Jen," while admitting the testimony of the above, still holds that the real issue of controversy between Confucianists and Mencius is not universal love per se. For according to him, both Confucius and Mencius did mean love to be all comprehensive. In support of this view he cites Analects, I, 6, "Love all men comprehensively," and Mencius VIIA, 46, "The man of jen embraces all in his love." But a closer look at the full text of these passages reveals that they do not really point to what Chan tries to read in them. The Analects I, 6 reads:

The Master said, A young man's duty is to behave well to his parents at home and to his elders abroad, to be cautious in giving promises and punctual in keeping them, to have kindly feelings towards everyone, but seek the intimacy of the Good. If when all that is done, he has any energy to spare, then let him study the polite arts.

22 Ibid., I, 2.
24 Ibid., p. 301.
Mencius, VIIA, 46, reads:

Mencius said, "The wise take all knowledge for their province, but are most concerned about important things. The Humane (men of jen) include all within their affections, but are most concerned with affection for the worthy. Yao and Shun in their wisdom did not know everything--they were concerned with things of the first priority. The humanity of Yao and Shun was not impartially displayed to all men--they were concerned most with affection for the worthy. . . . "26

As we see, in both cases the injunction to have kind feelings towards all is immediately qualified by preference for the worthies and the good. The acceptance of distinctions is implicit even in these passages. It is indeed hard to avoid the conclusion that universal love is anything but the moving spirit of these passages. And this is as it should be in keeping with the spirit of li which as we noted earlier is at the very center of Confucian social order. Even Chan concedes that "in the Confucian view, the application of love necessarily varies according to one's relationship, and it is natural that love should start with those nearest."27 The gradations, order, and distinctions must not be forgotten even in the application of love. In other words li must not be violated. In XII, 1 for example, Confucius says, "He who can submit himself to ritual is Good." In expanding it he gives us one of the strongest statements for the supremacy of li, viz., "To look at nothing in defiance of ritual, to listen to nothing in defiance of ritual, to speak of nothing in defiance of ritual, never to stir hand or feet in

26 Dobson, Mencius, 6.34 (7A. 46).
27 Chan, op. cit., p. 301.
defiance of ritual. . . .” 28 Propriety and following ritual in a genuine spirit, as is clear from the above, is then, a second quality which is specially emphasized. Since enough attention has been devoted to it already, here we shall confine ourselves to giving a particularly clear and articulate statement of it from the Doctrine of the Mean:

The superior man does what is proper to his position and does not go beyond this. If he is in a noble station, he does what is proper to a position of wealth and honourable station. If he is in a humble station, he does what is proper to a position of poverty and humble station. 29

Another classification brings to front three qualities—wisdom, humanity, and courage with rather unusual meanings attached to them. Thus one who practices with vigour is close to having acquired courage. Wisdom is given the more familiar meaning of love of learning. 30 He who knows these three is said to know how to cultivate personal life, which is reiterated to be the basis of any good government.

The superior man is also said to be the man who follows the Mean as opposed to the inferior man who fails to do so. To follow the Mean is to be in harmony, which is to give proper expression to various human feelings like sorrow, joy, anger, pleasure and pain. 31 It also includes the more usual meaning of going just far enough. More often than not the intelligent go too far, and the stupid do not go far enough. Both fail to attain the Way. The superior man knowing the right limits attains it.

28 Waley, The Analects, XII, 1.
29 The Doctrine of the Mean, Ch. 14.
30 Ibid., Ch. 20.
31 Ibid., Ch. 2.
What is just right is defined by the rules of propriety and this brings us back to the idea expressed in 1i.

Principles of Benevolent Government

Apart from the moral qualities cultivation of which assures the preservation of harmony and stability and thus establishes the authority of the ruler, there are the Principles of Benevolent Government following which the people in power can securely rule, the legitimacy of their regime unquestioned. The first of these states that the rule must be based on moral force. Since this moral force is acquired by cultivation of virtue and the moral qualities on which we have made some remarks above, this principle does not contribute very much to our understanding of Confucian view of justification of authority. It does emphasize belittling the use and effectiveness of mere brute power; the king who lacks moral force and wishes to rule by weapons alone will surely perish. Such a one is more foolish than the man who wanting to catch fish climbs the trees. 32 On the other hand the ruler with the moral force will command respect not only from his own people but also people from other states will flock to his kingdom bringing peace and prosperity. Nor shall he have to engage in acts of war or other means of displaying power, for the other rulers, awed by his moral superiority, will acknowledge his superiority and owe allegiance to him of their own accord.

The second principle of Benevolent Government makes an important addition: it brings into the center the welfare and opinions of the

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32 Dobson, Mencius, 1.5 (IA. 7).
people. Both Confucius and Mencius seem to have realized that some participation by the populace and a great deal of looking after their interests are essential to a really stable and well founded state. In any case it would be very hard for a tyrannical and whimsical ruler to lend legitimacy to his regime. Thus, both Mencius and Confucius speak repeatedly of the importance of the people. According to the Analects XII, 7, for example, there are three most important factors of government: sufficient food, sufficient weapons and the confidence of the people. If it came to a choice, one should forego weapons and food but not the confidence of the people. The state in which the ruler has no more the confidence of the people is lost indeed. Again the king is enjoined to avoid four "ugly" things, all of which mean in one way or the other oppression of the people. Savagery, which is putting men to death for wrong-doing without first having taught them the right; oppression, which is expecting the completion of tasks without giving due warning; torment, which is to be dilatory about giving orders but to expect absolute punctuality; and behaving like a petty functionary which is meaning to let a man have something but to be grudging about bringing it out. 33 When the state requires labor and such services from the people, it should look for a proper time so as not to interfere with people's farm work. Mencius describes the people as the most valued possession of the state, putting the soil and altars of the soil and crops next and the prince at the end. And only he who has the confidence of the people may

33 Waley, The Analects, XX, 2.
truly become Son of Heaven. 34 "What kind of 'virtue' should I possess, to be a true king?" asked King Hsuan. "Be a King by protecting your people--such a King is irresistible," said Mencius. 35 The way to gain the empire is to gain the people, and the way to lose it is to lose the people. Chieh and Chou lost their empires because they lost the people. The business of the people must not be delayed, 36 and the sure way to bring disaster is to love what the people hate and to hate what the people love. 37 What the people love, first of all, is economic security. The government should, therefore, make sure that ample food and clothing are provided to the people. If the people are in constant dread of starvation, they cannot be expected to care for manners and morals, 38 and a people without manners and morals easily confuse their roles, leading to violation of li and a general state of chaos and turmoil. Without a secure livelihood, people will not have a secure mind, and when people are feeling insecure there is nothing that they will not do. 39 Economically sound policies, therefore, are of essential concern. Mencius recommends a generous awarding of land, and encouraging of the people to have their own livestock and other such things which should add to the general material welfare of the people. Rather than the state owning the

34 Dobson, op. cit., 6.94 (7B. 14).

35 Dobson, Mencius, 1.5 (1A. 7).

36 Ibid., 1.32 (3A. 3).

37 The Great Learning, Ch. 9, tr. by Wing-Tsit Chan, A Source Book in Chinese Philosophy.

38 Dobson, Mencius, 1.32 (3A. 3).

39 Ibid.
whole land, let people own it, they will work harder when they have a sense of possession and the security which goes with it. For state treasury let there be one square for every eight families, they will jointly cultivate it and the produce from it will go to the treasury. Also let the king take care that each family have five acres of orchard planted with mulberry trees so that people have ample silk. Let them raise chicken, pigs, swine, and other livestock so as to have enough meat to eat. He concludes saying that one whose subjects wear silk and eat flesh when they are old, within whose frontiers the common people are never famished, never cold, cannot fail to become a True King.

Apart from a common-sensical understanding of the value of having public confidence through ascertaining their will and looking after their welfare, the importance of the people is also centered round the well established ancient belief that Heaven has people's welfare at heart, and that it brings about what pleases the people and wards off what hurts them. When we turn to the question as to how is it that we know the will of Heaven, we see additional reasons for the central place given to ascertaining people's will. It is implicit in the Confucian literature we are dealing with, that the only sure and concrete way of knowing Heaven's will is to know the will of the people. Mencius quotes approvingly from the Book of Documents, "Heaven sees as the people see/Heaven hears as the people hear." It is obviously the moral of the rather lengthy SA. 5. Shun was premier to Yao for twenty eight years.

40 Dobson, Mencius, 1.22 (1A. 3).
41 Ibid., 3.10 (5A. 5).
When Yao died, after three years of mourning, Shun fled to the Southern River, and the sons of Yao stayed at the capital. However, the people went to Shun to pay homage and not to the sons of Yao; the singers sang not to the sons of Yao but to Shun. Mencius remarks that these facts showed that Heaven gave its mandate to Shun and not to the sons of Yao.\footnote{Ibid.} This is, then, how we know the will of Heaven, through the expressed preferences of the people.

The next principle of Benevolent Government, the Rectification of Names adds little to what has already been said. Its essential point is that the Emperor should be Emperor, father father, son son, and a minister minister.\footnote{Waley, \textit{The Analects}, XIII, 11.} The term "emporer" sums up certain attitudes, duties and responsibilities as well as certain rights and privileges. The same holds true of other social terms. A ruler should act strictly in accordance with these, and the same may be said for the ministers, the officials, the fathers and sons. This is essentially the point of this doctrine--one not much different from what is already conveyed by \textit{li}, only the terminology is different. At least partially the troubles of his times are attributed by Confucius to the fact that there was no correspondence between what things actually were and what their names indicated they should be. This situation must be corrected and things made to correspond to their essences as conveyed by their names. Lack of this produces mixture of roles, confusion of functions with the resulting chaos and instability.
In the preceding we have set forth the conditions of justification. Obtaining heavenly *ming* is at the center. Heaven, however, is discriminatory and only the good ruler gets its mandate in his favor, the bad one loses it. A good ruler is one who succeeds in maintaining stability, and harmony in the social structure. By his own example, he keeps everyone at his respective place doing his respective duty. And he brings security and economic welfare to his subjects. These objectives he can best obtain by cultivating virtue as explained above and by following the guidelines listed under the Principles of Benevolent Government, which also we have noted above. By his own example, he also leads his people to moral excellence, himself adheres to and makes others adhere to the rules of propriety--these in the Confucian view are the best means of establishing the commonly held and accepted values. Failing to keep these values is to bungle the affairs of the state, bring poverty and general decay to the people, and to lose their confidence. Having lost confidence in him, the people will turn against him. Since Heaven expresses its will through the will of the people, this will be a sure indication of the ruler's having lost the all important Heavenly *ming*. Without it, the empire is propped on sheer physical force and morally speaking commands no respect or obedience. The loss of the values mean the loss of claim to obligation. Mencius recommends that nothing wrong should be considered in overthrowing or even putting to death such a king. In fact, such a ruler cannot even be called a king, he is merely a fellow or commoner. The following on the subject is worth quoting in its entirety:
King Hsuan of Ch'i asked: "Is it true that King T'ang banished Chieh, and that King Wu slew Chou?!
"Yes, it says so in the Records." The King said: "But properly speaking, may a subject slay his prince?"
Mencius replied: "A man who despoils humanity I call a robber; a man who despoils justice, a ruffian. Robbers and ruffians are mere commoners. I was aware that the commoner Chou was slain, but unaware that a prince was slain."44

King Hsuan's question is not trivial. Given the Confucian emphasis on li, and the specific and different duties of the different groups, how can the subjects whose functions in relation to the king consist mainly of obedience and loyalty take upon themselves the awesome prerogative of the latter, and chastise the ruler? Would not this mean a serious breach of propriety which leads to chaos and instability? And obviously this brings a serious inconsistency in Confucian political thought. Mencius gets round this difficulty with the help of the principle of Rectification of Names. The subjects' prime duty towards the prince is indeed loyalty and respect and obedience. But this holds good only when we are dealing with a True King, a Son of Heaven and not merely a Pa. Pa is a feudatory lord whose only claim to supremacy is sheer weaponry force. Thus, he contends that King Wu and King T'ang did not in fact slew any princes. Chou and Chieh, bereft of Humanity and Justice are not properly speaking to be called princes. They are, on the other hand, mere robbers and ruffians. And surely no rule of propriety is sacrificed if such people are banished and slain. This establishes unequivocally the Confucian belief that justification cannot be gained on the basis of mere power. This also demonstrates that in the Confucian

44 Dobson, Mencius, 1.1 (1B. 8).
view, li, the legitimatizing concept, is to be re-interpreted if not expressly rejected when it conflicts with the justificatory values. Justification is a matter of providing to the people benefits which they expect, and following those rules of conduct, cultivate those virtues which are thought to be essential as means to bring about those benefits and maintain the cherished values.

As in Manu and Kautalya, some checks on the authority of the rulers are thought to be desirable. The doctrine of the mandate of Heaven, with its stress on the public opinion and public welfare and the sanction it gives, as we have seen, to an overthrow of the illegitimate government, thus constitutes a powerful check on the authority of the king. In this connection we must not forget the gentlemen (Hsun tzus), the class of the superior men. Where rule of one man, the king or the emperor was a rule rather than the exception, this class of the learned scholars constituted another powerful check on the use of political power. Model kings to Confucian ways of thinking had already appeared in the past—Yao and Shun and King Wen and the Duke of Chou. Their rule and practices may be looked up to as the ideal with reference to which the kings of contemporary times may rectify their minds and the institutions of their times. But the experts in this area are the gentlemen scholars; they are the ones who are the authoritative interpreters of this historical past. This being the case, they naturally constitute a significantly influential class. Engaged in judging the present rulers with reference to the sage rulers of the past, these gentlemen scholars were capable of rousing the populace against a regime, if it appeared to deviate too much from the path established by the ancients, and appeared to be too arbitrary and unmindful of the public welfare.
Again as in Manu and Kautalya, the general view of the universe and of human nature seems to have played an important role in the political thought of Confucius and Mencius. The emphasis on rule by moral force rather than strong coercive power depends not only on the assumed Confucian view of the universe—the universe must be so conceived that it lends itself to be influenced and ruled by moral force—but also of human nature. As we noted above, Kautalya's and Manu's views on this subject are summed up more or less in "no man is innocent." The laws of the fishes—the stronger swallows the weaker—operate in the world and among men unless there is at the top a strong king, one who does not hesitate in wielding chastisement. Punishment, indeed, is conceived of as necessary to deal with human beings. The Confucian belief that man can be ruled by moral force alone, and in fact better than by physical force reveal a faith in man's basic goodness and his amenability to moral rule. Whereas Confucius implied that human nature is good, Mencius is emphatic that man is naturally good and turns towards goodness as water flows downwards.\footnote{Ibid., 4.7 (6A. 2).} It is of the essence of man's nature to be and do good. One who does evil goes against his natural endowment.\footnote{Ibid., 4.11 (6A. 6).} For naturally man has been endowed with the four beginnings from which all the four virtues develop. Thus he has in him inborn the feeling of distress at the suffering of others which is the beginning of jen. He also has the feeling of shame and disgrace which is the beginning of yi (justice); the feeling of deference to others which is the beginning of propriety (li);
the sense of right and wrong which is the beginning of chih (wisdom). This is as it should be, for T'ien (Heaven) has endowed us with our nature, and Heaven would not bestow on us something evil. How then is the evil in men explained? If all men are by nature good, why do they turn towards evil and injustice and ignorance and the like? Mencius' reply to this is that T'ien endowed us with the four beginnings; but it is we who have to develop them and once developed preserve them. If not nurtured aright anything will wither away. One has to hold fast to and preserve the original goodness of heart; if one lets go, one will destroy it. This is beautifully brought out in his favorite analogy of the Bull mountain. It is so well put that it is worth quoting in length:

Bull mountain was once beautifully wooded. But, because it was close to a large city, its trees all fell to the axe. What of its beauty then? However, as the days passed things grew, and with the rains and the dews it was not without greenery. Then came the cattle and goats to graze. That is why, today, it has that scoured-like appearance. On seeing it now, people imagine that nothing ever grew there. But this is surely not the true nature of a mountain? And so, too, with human beings. Can it be that any man's nature lacks Humanity and Justice? If he loses his sense of the good, then he loses it as the mountain lost its trees. It has been hacked away at--day after day--what of its beauty then?48

The metapolitical* view that the moral force is the most potent force in the universe, the basic division of society into roles with

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47 Ibid., 6.20 (6A. 8).
48 Ibid.

* We use the term metapolitical to indicate any views about man, society, the universe etc., which, strictly speaking do not form part of political theory proper, but rather of the metaphysical, religious belief systems of the thinkers. Often, these are incorporated from the prevalent religious, metaphysical presuppositions; but this is not necessary. They may be peculiar to a particular thinker.
specific functions and duties attached to them, the basic goodness of human nature, the belief in T'ien and its ming constitute the fundamental metaphysical basis for Confucian view of politics. Security and stability through harmony of social roles emerge as the ends of polity. Whereas the Indian philosophers we discussed sought to achieve it by strict caste system, by a more or less rigid fixing of places by birth; the birth-only or the birth mostly criterion of Indian society is not characteristic of the Confucian system. Precise definitions of roles and ranks are important for a stable society, which is a genuine concern of the Confucians, but they always let culture and cultivation of moral qualities remain at least as important a factor as birth and possibly more. In addition to following li, these ends are best achieved by a ruler with personal excellence and moral force in cooperation with the superior men who are well versed in the lore of the past sage rulers, for the sage rulers of the past had achieved or at least approached the ideal. Obtaining confidence of the people, showing extreme regard for their opinions and their welfare are regarded as most important factors for a successful government. The way in which the doctrine of the mandate of Heaven is presented, buttresses this. This also guards against the possibility of coming to power of a tyrant, of a man who rules arbitrarily and throws the cherished values of the people to the wind.
CHAPTER III (CONT'D.)
JUSTIFICATION OF POLITICAL AUTHORITY
IN LAO TZU & CHUANG TZU

The Taoists are a rather interesting case for us. The values cherished call for the realization of a non-political society. So perhaps it would be better to speak in this case of justification of non-justification of political authority. This can be appreciated only after a proper understanding of the concept of Tao. We shall, therefore, start with an outline of this concept. For Lao Tzu and Chuang Tzu, it is the primordial unity of Tao, the Oneness before the emergence of distinctions. Tao is the one, fathomless, undifferentiated, beyond intellectual distinctions of right, wrong, good and bad. As Lao Tzu puts it, it is something undifferentiated and yet complete; it exists before heaven and earth; it is soundless and formless; operates everywhere and may be considered the mother of the universe. Not knowing its name, it may be called Tao.49 It is fathomless and elusive. It is the Invisible, Inaudible, the Subtle, Infinite and boundless, beyond name.50 This nameless is prior to heaven and Earth and also the origin of them.51 From the point of view of the Taoists, once we reach the stage where the primordial Oneness is broken; and knowledge, wisdom, good, bad, right and wrong arise; there the Way is lost already. Having lost the Way, the people are ridden with discontent and strife. The highest wisdom prevails at the stage when people do not even know that there are things. Then

49 Lao Tzu, Ch. 25, A Source Book in Chinese Philosophy.
50 Ibid., Ch. 14.
51 Ibid., Ch. 1.
comes the stage when people know that there are things but still make no distinctions. When the contraries appear, Tao no longer prevails.\textsuperscript{52} The stage where differences have not yet arisen, is also the true state of nature, for Tao models itself after nature.

The ideal social and political order, then, is that in which things are still in their original nature and there is a minimum breach in the primordial unity. A society, therefore, which is too much distinction-ridden as is the Confucian; as the Confucianists make too many distinctions between high and low, right and wrong, good and bad, superiors and commoners, and want to set up a social political order which is based upon and enhances these distinctions, is far from desirable. Such a political order is contrary to Tao and does serious injustice to original human nature. In the primordial state the people lived in harmony and unison and in a condition of utmost freedom. The distinctions, intellectual, moral, and social were not recognized. Devoid of artificially created desires and acquisitiveness, people lived in a state of peace and contentment. But then came the so-called sage kings, and with their propagation of virtue, propriety, music and ceremonies, destroyed this simple but contented life and set people against each other.\textsuperscript{53} The damage which all these elaborate ceremonies and rules of propriety do to the people may be comparably viewed from what happened to the horses when the celebrated Poh-Loh, trying to train them, ended their natural living. With their hoofs they are able to run around even in frost and snow; their

\begin{footnotesize}
\textsuperscript{52} Chuang Tzu, tr. by Herbert A. Giles (London: George Allen and Unwin Ltd., 1961), Ch. 2, p. 40.
\textsuperscript{53} Chuang Tzu, tr. by Herbert Giles (London: George Allen and Unwin Ltd., 1961), Ch. 9, p. 98.
\end{footnotesize}
hair protects them from wind and cold. They eat grass when hungry and
drink water to quench their thirst. Wine and Royal dwelling places are
of no use to them. Such is the real nature of horses. Then came Poh-Loh
desiring to manage them:

So he branded them, and clipped them, and pared their
hoofs, and put halters on them, tying them up by the head
and shakling them by the feet, and disposing of them in
stables, with the result that two or three in every ten
died. Then he kept them hungry and thirsty, trotting
them and galloping them, and grooming and trimming, with
the misery of tasselled bridle before and the fear of the
knotted whip behind, until more than half of them were
dead. 54

Those who survive are burdened with all kinds of unnatural
accessories which restrict their movements and kill their spirit. There
is no comparison between these horses and the untouched, the wild ones
who are healthy, vigorous and free. And yet if the taming of the horses
goes on for centuries with the result that we see wild horses no more,
would the followers of Poh-Loh not have us believe that reins, saddle and
ropes are in accordance with the original nature of horses?

So are men saddled with all kinds of artificial social institu-
tions, and so would the Confucianists and other so-called sages have us
believe that all these elaborate means of chaining men's spirits are in
fact in accordance with original human nature. Oppressed by all kinds of
artificially framed laws, social, political, moral; men lose their natural
simplicity and healthy contentment and develop into a fearing, cringing,
seeking, competing, discontented lot. All sorts of breaches of the laws--
crimes--arise and punishment and strict law-enforcing agencies are advo-
cated. This, of course, merely adds to the chains and the misery of men.

54 Ibid., Ch. 9, p. 97.
Thus in the pre-political society, there was primordial unity with Tao and the resulting oneness with nature, peace, contentment and complete freedom. These are the values to be cherished, but they are destroyed in a political society. What is needed is not punishment and law enforcement but an abolition of the unnatural and the artificial, and the restoration of men to their natural integrity. And since the arrangement whereby some men claim a right to obedience from others is unnatural, not in accordance with the perfect freedom and original simplicity of man, such an arrangement that is, the very existence of political society should be done away with. If the dominant values are oneness with Tao, original simplicity, a distinctionless society and complete natural freedom, then the institution of authority stands condemned. In Chuang Tzu's words:

Away then with wisdom and knowledge, and great robbers will disappear! Discard jade and destroy pearls, and petty thieves will cease to exist. Burn tallies and break signets, and the people will revert to their natural integrity. Split measures and smash scales and the people will not fight over quantities. Utterly abolish all restrictions of Sages, and the people will begin to be fit for the reception of Tao.55

Let there be no praise for the good or distinctions for the able. If people are as natural as wild deer, they will be upright without knowing that they are practicing the virtue of justice. They will love one another without consciously trying to follow the principle of benevolence. They will be faithful without being taught sincerity.56 But have an elaborate list of rights and duties and the breaches of law will be abundant.

55 Giles, Chuang Tzu, Ch. 10, p. 103.
56 Ibid., Ch. 12, p. 128.
But it may be countered that if our interpretation is correct, then what sense is one to make of their talk of functions of government? We believe that these references are to be read as pertaining to a transitional government, which in the end, so to say, will wither away. Corrupted for a long time, fallen from their original state, people have forgotten how to live in that primordial simplicity. They must be made to unlearn the crooked doctrines which have seeped through their minds. Thus there may be a government whose function it will be to let people be and live in their original simplicity; not to clutter their lives with intricate rules and elaborate ceremonies and perhaps, occasionally to warn them against adverse doctrines. The true Sage ruler keeps people's hearts vacuous and weakens their ambitions. So that they should not compete, he does not exalt the worthy. For him there are no distinctions between the worthies and the idlers. In fact, so minimum is his rule, that he is hardly known to the people.

The Confucian Sage cultivates moral excellence, benevolence, righteousness, ritual and wisdom; recognizes propriety and rank and status distinctions and sees to it that they are properly maintained. To a Taoist Sage, all the distinctions of high, low, good and bad are in the realm of ignorance and non-realization; he goes beyond these as well as the ordinary sensations of pleasure, pain, loss, grief, suffering,

57 Lao Tzu, Ch. 3.
58 Loc. cit.
59 "When the government is non-discriminative and dull,/ The people are contented and generous." Lao Tzu, Ch. 58.
60 "I take no action and the people of themselves are transformed." Ibid., Ch. 57.
victory or defeat. Unattached to anything in the world, he is without coveteousness, fear or anxiety. Success, profit, skill are immaterial to him; he does nothing which he does not wish to and looks with supreme indifference to praise or blame from others.

The source of this victory over himself and the world is his attainment of Tao. In the experience of Tao, all distinctions of this and that, object and subject, joy, sorrow, good and bad vanish. For all these are the result of the differentiating intellection, and Tao is beyond thought, language and these differentiations. To realize Tao is to leave behind the bewildering multiplicity of the universe and realize the Unity, the Oneness which is at the source of the universe and constitutes its reality. The Sage, having realized this Unity within multiplicity and identified himself with it, completely tranquil, wanders in the realm of "no-thought," "void," "nothingness," "the Uncarved Block."

Such tranquility is of primary value to the Taoists, and the socio-political order must be such that it is conducive to its realization. This tranquility, however, is not something alien to human beings; it obtains effortlessly in the state of original simplicity, which also is a state of maximum liberty. For it is the state in which laws are the

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61 "Such a man will bury gold on the hill-side and cast pearls into the sea. He will not struggle for wealth, nor strive for fame. He will not rejoice at old age, nor grieve over early death. He will find no pleasure in success, no chagrin in failure. He will not account a throne as his own private gain, not the empire of the world as glory personal to himself. His glory is to know that all things are One, and that life and death are but phases of the same existence!" Chuang Tzu, Ch. 12, p. 118.

62 Chuang Tzu, Ch. 12, pp. 126-127.
fewest, and the cramping effect of oppressive institutions the minimal. Being tranquil and free, people are happy, and where people are happy, there is stability also. The stability and harmony achieved in the Confucian way, where people have fixed roles and allotted ranks, too many rules to follow and elaborate rites to obey, is obtained at too high a cost; it stultifies human nature and sacrifices freedom. And yet, if you just leave human beings to their original integrity, they will enjoy peace of mind, maximum freedom, and there will be stability in the state. In this, the Taoist faith in the goodness of human nature is deeper than that of the Confucianists. Though the latter believe in its basic goodness, they still hold that the best social order cannot be produced if you leave them alone. They have to be guided and led through by righteousness, benevolence, wisdom, ritual and the like.

The tranquility, liberty and harmony which the Taoists value are not produced by fitting tightly into a role, but rather are achieved by union with Tao. It is a spiritual harmony contrasted to the Confucian which may aptly be described as social harmony. Since the former is the only one worth striving after, political society is to be rejected since it seeks the latter at the cost of the former. To the Taoists, the integrity and original liberty of man is much more valuable than ritual and propriety and loyalty. The Confucianists emphasize the value the latter, and so advocate a structured political society which the Taoists reject.
CHAPTER IV
JUSTIFICATION OF POLITICAL AUTHORITY
IN HOBBES AND LOCKE

So far the thinkers we have discussed have been interpreted to be concerned with the question of justification from the angle of benefits, goods and ends. That is, of the two distinct though related questions, they have addressed themselves to the one listed as (1) below, the two questions being:

(1) Why should men enter political society at all? What are the rational grounds for the existence and maintenance of a system in which some men have political power over others? In other words, in terms of what ends, values, goods and benefits is such a system justified?

(2) What makes it **fair** or **just** that men should live in a structure which allows for some men to have power over others?

The questions raised by (1) are not exhausted by answers to (2) and vice versa. For example, justification in terms of the benefits or ends may still leave the question of fairness of such an arrangement open. Conversely, a political arrangement may be fair though quite detrimental to the interests of the citizens. Both the questions, however, conceal certain assumptions. If, for example, someone believed that there is no alternative to living in political society, that it does not make much sense to talk about human existence except in the context of society since it is part of the meaning of human living that it is made possible only in a political context, then the question why should there exist and why should people uphold a political society at all, would not be a very significant question. However, in these circumstances, even though we
could not meaningfully ask the question whether there should be any government at all, we could still ask what kind of criteria must be used if a government is to be justified. That is to say, from the above position it does not follow that any kind or extent of political authority is justified. We could, for example, decide upon certain goals or ends which ought to be realized by governments in general; this would give us a general criteria by which we could ascertain whether a government X stands justified or not. Thus, one could deny the validity of the first question and yet quite consistently lay down certain general principles on the basis of which a particular form of government could be judged as justified or not. As to the validity of these general ends themselves, one could derive it from one's view of man, universe, and from one's ethical principles.

Both Hobbes and Locke hold that the statement, "Man is a political animal" is not an analytic statement, nor is the necessity of political living an obviously plain truth. Men must live in political society, not because otherwise they would not be men, but because it is beneficial and good (in the sense of useful) for them to do so, because by doing so they realize those ends which they hold valuable.

For a fuller grasp of the truth of the above statement and the ends mentioned in it, it would be useful to imagine life as it would be outside political society. Herein lies the analytic value of the concept of the state of nature. Whether the state of nature is a historical fact
is not terribly important.* The question is what kind of life men would live in the state of nature. The question is a hypothetical one and one can question the usefulness for analysis of such a procedure, but there is not much point in debating the historical authenticity of it.

As for the specific descriptions of the state of nature, Hobbes and Locke differ considerably. Hobbes proposes that by nature, men are more or less equal.¹ It is true that some men may have more physical prowess than others, but then the other can overcome the former by cunning, deceitfulness, or by uniting his strength with those of others. Hobbes also believes that men are by and large equal in their mental capacities. Given enough experience and time, each one will learn just as well as any of his fellow men. Now among people who are obviously unequal, a relationship of master and slave, the ruler and the ruled, the leader and the follower, is likely to emerge and stabilize the situation. Constant show of superior power on the part of the stronger would eventually convince the weaker to see an advantage in obeying them rather

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* Hobbes, for example, admits that, "It may . . . be thought there was never such a time nor condition of war as this, and I believe it was never generally so over all the world. . . ." He does not think that this is in any way damaging to his argument. Again, "But though there had never been any time wherein particular men were in a condition of war, one against another, yet in all times kings and persons of sovereign authority, because of their independency, are in continual jealousies and in the state and posture of gladiators, having their weapons pointing and their eyes fixed on one another . . . which is a posture of war." Leviathan (Indianapolis: The Bobbs Merril Co. Inc., 1958), Ch. 16, p. 108. Locke contended that men were, in fact, in the state of nature before they made themselves members of some "politic" society. The Second Treatise of Civil Government (New York: Hafner Publishing Co., 1947), Ch. 2, Section 15, p. 128.

¹ Leviathan, Ch. 13, p. 104, ff.
than competing or fighting with them, thus leading to a more or less state of peace and stability. This, however, does not materialize when such a clear cut distinction between the superior and the inferior does not exist. Here every man feels that he can do just as well as the fellow next to him; all are therefore in competition against one another. Correlated to this feeling, of course, is this feeling that the person next to me can do just as well as I, leading to an uneasy feeling of non-security and diffidence. In order to get rid of these uneasy feelings, an individual tries to master others by use of physical force or cleverness. He is thus driven to victory over other men, working hard to put himself in a position where he can see no power greater than his, and a threat to him. As all men are more or less equal, so all strive toward such a goal, and everyone finds everybody else as an enemy. All are thus at war with each other. In such a state of war, there is, of course, no security, stability or peace, and in the absence of these are absent all the other good things of life. It can be said without any exaggeration that a certain degree of security and peace are presupposed by human endeavors. In a state of war there is no room for industry; for no one is sure if he will be able to enjoy the fruits of his labor. Nor would there be any business, navigation, knowledge of any degree of sophistication, arts, or culture for the same reason. The life of man, consequently, in a state of nature is "nasty, poor, brutish and short."

In this state each man has a natural right ("right of nature") which consists in "... the liberty each man has to use his own power, 

2 Leviathan, Ch. 13, p. 107.
as he will himself, in the preservation of his own nature—that is to say, of his own life—and consequently of doing anything which, in his own judgment and reason he shall conceive to be the aptest means thereunto. 3 By liberty, Hobbes means absence of external impediments. 4 Man, then, has the "right of nature," the right to act so as to preserve his life; the right not to be hindered by external impediments. Now, right is generally a right against other rational creatures and carries with it a corresponding duty on their part to respect it. 5 However, for Hobbes, every man has the right to act, a right to everything that he thinks apt as a means to his preservation; no one has an obligation to respect or not hinder another person in pursuit of his right, if such an act is useful to him. Hobbes' right, then imposes no obligation on the others to respect it. Is it then perhaps only a pseudo-right? To say that I have a right to do X, is in a very important way to say that I ought not to be hindered from doing X, even if other men do not like it and may have power enough to stop me from doing it. And yet in Hobbes' account my right gives me no such claim against others. Hobbes' natural right may, thus, more properly be described as the absence of obligation in the pursuit of the end of self-preservation. We must also carefully understand what Hobbes means by calling it a "natural right." One could imagine Nature in the anthropomorphic way and then surmise that "she" gives this right to every man. Such a notion, however, is far from

3 See ibid., Ch. 14, p. 109.

4 Ibid.

Hobbes'. To have a "natural right" is also construed sometimes, to mean that it is "inalienable," that it cannot be taken away from the possessor in any circumstances. At first glance it seems that Hobbes does not mean any such thing either. For as shown below, as long as men continue to have and exercise the natural right for everything, there can be no covenant and no peace and thus no end to the state of war. So they must limit, though not give up the right to protect and preserve one's life. They must exercise it in a way which is consistent with living in a civil society. Thus, by natural right he means that every man in the state of nature regards himself as inalienable in the sense that even in civil society he cannot transfer or give up the right to defend his life.

If to be free to do anything in advancement of self-preservation is the "right of nature," then that precept or general rule which forbids us to do that which is destructive of our lives or of the means to that, is the essence of laws of nature. Since the law of nature is to be obeyed, there is, after all, a duty corresponding to the right. This duty, however, lies not with others, but with oneself. One has an obligation, so to say, to oneself to respect one's own natural right, and thus not do anything which is destructive of it. The natural right, thus, is prior to the natural laws, the latter being nothing but precepts which reveal to us the best means to attain that which is enjoined by the natural right.

What Hobbes calls the fundamental law of nature is the rule that every man "seek peace and follow it." The desirability of peace for a

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6 See ibid., p. 110.
secure living is obvious when one considers the conditions that prevail in the absence of it in the state of nature. But now, given that men are by nature more or less equal, that every man by nature has a right to everything, how can peace be procured? So long as each has a right to do everything, and nobody has any obligation toward anybody else except himself, men are bound to stay in the state of nature where all is war. Peace requires that men give up this right to everything. However, unless this renunciation is mutual, the one who renounces puts himself at a distinct disadvantage and may injure his duty to preserve himself which, of course, is not allowed. Hence the giving up of unlimited liberty, if fair, has to be mutual. Thus we have the second law of nature. "that a man be willing when others are so too, as far forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things, and be contended with so much liberty against other men, as he would allow other men against himself."\(^7\) Since the right to anything in the state of nature consists of liberty to hinder anyone of the benefit of his own right, laying down the right is, in other words, limiting one's freedom and depriving oneself of the freedom to hinder everybody. Hobbes carefully points out that since the purpose of all peace, transference or laying down of rights etc., is the good it will do to an individual, namely the furtherance of his own self-preservation; therefore, a man cannot lay down certain rights doing away with which he is likely to jeopardize his own life. Thus, he cannot lay down his right to resist when attacked, chained, imprisoned or wounded.

\(^7\) Ibid.
The second law of nature which enjoins us to cut down our liberty for the sake of peace and security, would be useless unless supported by the third, which is "that men perform their covenants made."

A covenant is a sub-class of contracts. Contract consists in the mutual transference of rights. And when one of the contractors may deliver the goods contracted at a later date, whereas the other delivers right then and trusts the former for the promised good, the contract is called a pact or covenant. Again nobody can make a covenant not to defend his life or to accuse himself and thus put his life in jeopardy. This follows from the same considerations which hold good in the case of certain rights.

The second law of nature then prescribes that people be willing to form covenants. Now the covenants cannot do the job they are supposed to do unless they are kept. Unless kept, they are merely words, and the right of all men to all things remaining, the state of war continues to prevail. Covenants, therefore, must be kept. But we cannot suppose that men will in fact keep their covenants unless they are backed by some coercive power. For it is in the interest of a man that everybody else keep the covenant but not he. He will then enjoy greater liberty than anybody. Thus, there needs to be a coercive power which sees to it that covenants are kept and that the breakers of covenants are punished. When there is the realization that with the breach of pact, he stands to lose more than gain, only then can men be counted upon as keeping the covenant.

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8 See *ibid.*, Ch. 15, p. 119.
It has, by now, been shown that the interests of man as a self-preserving being are best served by avoiding the state of nature, which requires following the laws of nature. The laws of nature show the necessity of making covenants and keeping them. Knowing human nature, it is clear that men will not keep pacts unless there is some coercive power to back. Now, Hobbes believes that the only way we can have such a common power is if men bestow their strength and power on one man or an assembly of men and submit to him or this body their judgment and their will; if in other words, they enter into political society by creating a political authority. This is done if every man should say to every other man, "I authorize and give up my right of giving myself to this man, or to this assembly of men, on this condition, that you give up your right to him and authorize all his actions in a like manner."\(^9\) By this act men bring themselves into a commonwealth. And this person on whom the authority has been bestowed by men, by this authority wields such power that he is able to keep peace at home and protect them from external dangers.

Security, self-preservation, protection from internal chaos and external danger, such are the benefits attained by the institutions of political authority and provide the answer to our question in sense (1). Hobbes seems to think that these ends alone justify authority; although now and then he does seem to speak of ends in addition to that of bare survival. In describing the state of nature, e.g., he complains not only that people's lives are not secure, but also that things which make life

\(^9\) See \textit{ibid.}, Ch. 17, p. 142.
confortable—commodious buildings, navigation, commodities that may be imported by sea, instruments of moving and removing as require much force—do not obtain; nor can knowledge, culture, or art flourish in such a state of nature. The life of man is not only short, but also solitary, poor, nasty and brutish; in other words, not very comfortable or full of values which we generally associate with decent human living. In Chapter 17, again he speaks of not only self-preservation but also of a "more contented life" to be gained by living in a commonwealth. ¹⁰

Locke's account of the state of nature resembles Hobbes' but there are also significant differences. Like Hobbes, Locke believes that in a state of nature men are equal* and have perfect freedom. They are not under the arbitrary will or rule of any other person and have full freedom to dispose of their possessions and act as they like. And all the power and jurisdiction is reciprocal, no one having more than another. ¹¹ However, although it is a state of perfect freedom and equality, it is not a state of war as Hobbes believed. It is true that in the state of nature there is no judge to settle disputes which may arise between men. However, only when one man intends to use force against another, and there is no superior power to whom one may appeal and settle the dispute—only when use of such force is intended or brought about, does the state of war properly speaking obtain. ¹² Such a

¹⁰ See ibid., Ch. 17, p. 139.

¹¹ Second Treatise, Section 22, p. 132.

¹² See ibid., Section 19, p. 130.
state of war, in fact, is not co-extensive with the state of nature, for the latter has a law of nature, and if men followed it, they could live in peace and harmony and keep themselves out of the state of war. For the law of nature ordains that "no one ought to harm another in his life, health, liberty or possessions." Why so? Why are the life, liberty and possessions of every man in the state of nature sacred and inviolable by others? And how do we know such a law of nature? We know the law of nature through reason. It is "reason . . . which teaches all mankind who will but consult it. . . ." Again, "it is certain that there is such a (natural) law, and that, too, as intelligible and plain to a rational creature and a studier of that law as the positive laws of commonwealths, nay, possibly plainer, as much as reason is easier to be understood than the fancies and intricacies of men. . . ." As to why everyone has a right and, therefore, the corresponding duty on the part of the others to respect these rights, the argument needs to be disentangled. First, this follows from the fact that we are all "equal and independent." We are not equal in the sense in which men are equal in Hobbes' view--equal more or less in physical strengths, as well as mental powers. Locke recognizes that men, in fact, are not equal in all respects. Som may be above

13 See ibid., p. 123.
14 Ibid.
15 See ibid., Sec. 12, p. 127. Leo Strauss in his Natural Right and History (University of Chicago Press, 1953), and in On Locke's Doctrine of Natural Right (Philosophical Review, 1952), contends that Locke did not believe that reason is capable of knowing the natural law. He has, however, been ably replied to by Charles Monson, Jr. See his Locke and his Interpreters (Political Studies, Vol. VI, No. 2, 1958).
16 Second Treatise, Sec. 19, p. 130.
others due to age or virtue, others due to better mental and moral qualities. However, this is not inconsistent with their being equal in the sense that every man has the "equal right to his natural freedom, without being subjected to the will or authority of any other men."17 Secondly, all men are "the workmanship," "the servants," "the property" of "one omnipotent and infinitely wise Maker," one sovereign master. We are made to last during his pleasure, and not one another's; thus, nobody has a right to another man's life. Again, he has furnished us with "like faculties" thus from this it follows, that he intended all of us to be free and equal.18

The derivation of natural rights from the natural facts of equality and freedom, of course, is not without a flaw. The statement about rights is a normative statement about the powers which people ought to have, and the exercise of which ought to be respected, recognized or at least not hindered by others. Such a claim, of course, cannot be made good by showing that men, in some mythical state of nature, were in fact equal and free. One could very well argue that even if by nature men are equal and free, it is undesirable that they should have equal rights. To say that God willed it so, is of course to make an empty statement since God's will presumably encompasses everything.

These difficulties, however, we must set aside for the moment and follow Locke's argument. If, then, the law of nature prevails in the state of nature, and men through the exercise of their rational faculties

17 See ibid., Sec. 54, p. 147.
18 Ibid.
grasp it, then there follow certain rights and certain obligations outside the civil society. These obligations (the duty of every man to respect the life, liberty and property of other men) and these rights (the right, therefore, of every man to such things against every other man) must be treated as sacred, derived as they are from natural law, which has its sanctions from the will of God. Locke thus reverses the relationship between natural law and natural right. In Hobbes, the natural right is prior to the natural law; the latter describes the best means to achieve the former. In Locke the natural law comes first, and from it are defined certain rights of the individual. It is also clear from the above that if men were to voluntarily obey the law of nature, they will respect each other's life, liberty and property and thus live in peace and harmony without the need of a power over them--i.e. without the necessity of institution political authority. Now, though, if any man who will but look inward and listen to the voice of reason, will discover and grasp the natural law, yet it is not necessarily true that beholding it, he will also follow its commands. Also, there are corrupt, vicious and degenerate men and such men do not follow the law of nature. This is a considerable factor in upsetting the peaceful coexistence in the state of nature and leads to strife, discontent and war. Again, in the state of nature, since there is no superior power, all being equal and independent, the execution of the law of nature is placed in the

19 "And, were it not for the corruption and viciousness of degenerate men, there would be no need of any other, no necessity that men should separate from this great and natural community and by agreements combine into smaller and divided associations." Second Treatise, Sec. 128, p. 185.
hands of every man. In other words, in the state of nature whosoever transgresses the law of nature by offending against the life, liberty and property of another man, may be by the offended party punished to the extent to which the law has been violated. The offended party also has the right of reparation against such an offender. This follows from the law of nature, hence it would be useless if not enforced, and in the state of nature this must necessarily fall upon the hands of each individual. But now this brings in tensions which eventually bring an end to this happy living. For it cannot be doubted that men being partial toward themselves, they cannot make fair judges in their own cases. And yet there is no other course to follow. Thus the law of nature cannot be executed with impartial justice. This results in men's increasing reliance on force. Thus, three factors, then, are ultimately responsible for the instability, inconvenience, and insecurity in the state of nature, and leading men to the establishment of a political society.

First, though the law of nature is "plain and intelligible" to all rational creatures, yet, men, being ignorant, lazy and biased toward themselves, fail to accept it as a law binding on them. Thus, there is, in effect, no settled, known law, which is accepted by common consent to be the standard of right and wrong and of deciding controversies.

Secondly, men being partial toward themselves, and every man being the judge and executioner of the law in his own case, there is a

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20 See ibid., Sec. 11, p. 126.

21 See ibid., Sec. 11, p. 126.
lack of a known impartial judge who may decide all the controversies according to the established law.

Thirdly, there is not a central power to back and support the execution of rightful sentences. 22

The result of all this is that, though, in the state of nature men have great liberty and rights, the enjoyment of these is very uncertain and constantly in danger of being invaded by others. 23 The state of nature, then, is full of inconveniences, discomforts and insecurity, and the law of nature is not effective enough.

Thus, though all men with the law of nature have certain rights and obligations, these cannot be best realized in the state of nature. Men, then, must form a political society. This men do by agreeing upon a common established law and judiciary to which they can appeal and which has the authority to decide disputes between them and punish offenders. 24

Thus, in forming the political society, men give up the executive power of the law of nature, which in the state of nature, each one has, and resign this power to the public which vests it in one supreme government. This government gets its authority from the governed and rules and acts as judge by standing rules which are fair and non-discriminating. Such a body politic decides as to what punishment shall be given to the transgressors of the laws, which laws have been framed by the people themselves.

22 See ibid., Sec. 124-126, pp. 184-185.
23 See ibid., Sec. 123, p. 184.
24 See ibid., Sec. 87, p. 163.
Thus, notwithstanding the differences between Hobbes and Locke on the details of the state of nature, natural law, natural right and their sources, their answer to the question in the sense (1) is of the same kind as that of Hobbes. Authority is justified in terms of the goods that it helps to realize. In addition to Hobbes' self-preservation, Locke adds liberty and property. In a sense the former requires the other two as means to it. As Locke puts it, from one who takes my liberty away, makes me a slave, I have no protection of my very life. And the usefulness of property for self-preservation is obvious.

Certain implications of this kind of justification for the form of government, the way in which authority may be exercised, and the limits and checks on it may be drawn. If authority is justified in terms of certain ends, then the form of government which preserves and furthers these ends best, is obviously the best kind of government to have; and the way in which authority is exercised must be consistent with these ends. Men have an obligation toward the ruler only so long as the former keeps his trust, and provisions must be made to curb and check governmental power effectively in case it starts acting in ways which are detrimental to the goals set for it.

Hobbes prefers the absolutist kind of government with vast powers accorded to the "sovereign." He is above the covenant, and therefore it is meaningless to speak of his breaking it. He cannot thus be accused nor be punished by his subjects. He alone is to decide when to make peace and when to make war. He decides what doctrines are to be taught and what to be censored, he is to make rules and let his subjects know what liberties they may enjoy, he is the final judge in disputes, he
is the dispenser of rewards and punishments, he is to choose the counsellors and the ministers.\textsuperscript{25} The subjects have the freedom to do only those things which are not punished by the sovereign.\textsuperscript{26} However, as self-preservation justifies political authority, so it also sets the limits to political obligation. Thus the subjects are absolved of all political obligations if the sovereign is unable to carry on this fundamental function of according protection to them. It also follows from the same considerations that a subject cannot transfer his right to defend his life, even though he may be the sovereign be justly condemned to be killed, wounded or chained.\textsuperscript{27}

Locke's criticism of Hobbes, that to advocate absolute powers to the sovereign without bringing in any checks and controls over it, is like advising men to beware of foxes but let themselves be devoured by a lion, has much substance to it. For Hobbes' citizens have no protection against the vast powers of the sovereign who is above the covenant, above the laws, and has no restraint on his authority. What is the guarantee that he will not use this power to defeat the very ends for which he is endowed with it? Wouldn't it be rational for men to anticipate such a possibility and have some safeguards?

Two factors in Hobbes' thought, it seems, played an important role in leading him to an absolutist view of government. First, the exaggerated importance attached to bare survival. So important was the

\textsuperscript{25} Leviathan, Ch. 18, pp. 143-149.
\textsuperscript{26} See ibid., Ch. 21, p. 173.
\textsuperscript{27} See ibid., Ch. 21, p. 176.
prevention of the state of war in his mind, that he thought that as long as the state provides conditions of peace, all is justified on its part. And he thought that without absolute powers it is impossible for the state to carry on this minimal function—obviously a reflection of the civil-war torn England of his times. And although as mentioned above, he saw that there were other values in life which ought to be realized—comfort, contentment, knowledge, art, and culture, etc.—overshadowed by the survival value, these played no significant role in his thought.

It may be said that narrow though Hobbes' concept of value may be, the form of government which he proposes is consistent with it, and that in accordance with it, he does give the individual protection against the sovereign. Hobbes does say that the individual's right to defend his life is not transferable and that he should, therefore, defend himself against being chained, wounded or put to death. But this I submit is only a semblance of a right, and a very ineffective limit on the sovereign's power, if that is what it is meant to be. And this is so because of Hobbes' rather inadequate notion of "right." The individual's right to defend himself carries no obligations on the part of others to recognize this and facilitate or not hinder him in this. In fact the power of the society is against him, and to Hobbes' way of thinking quite legitimately so. How meaningful is this right, then, considering he is up against the unified power of the sovereign? And since it imposes no duty on the sovereign to respect it, how far can we consider this as a significant limit on the sovereign's power?

Locke keeps a closer look on the exploitative possibilities of political power and describes more carefully the form in which it may be
wielded and the limits and checks which must be put on it so as to keep it in consonance with its ends, the realization of which justifies it—these being protection and a secure enjoyment of the rights accorded to men under the law of nature; the right to life, liberty and property. Looking back at the state of nature, we see that there are three main defects in it which cause insecurity and inconveniences in the enjoyment of these ends. This gives us a clue—the government must exercise authority in such a way so as to remedy these defects. This means that whoever has the legislative or supreme power of the commonwealth, must govern by established and standing laws, promulgated and known to the people rather than by extemporary decrees; by impartial and upright judges who decide the disputes by these laws. The valid reason for which political power may be employed are the execution of these laws at home and the protection of society from foreign invasion.

The establishment of the legislative power, then, is the first fundamental principle which regulates a political society. It alone has the right to promulgate laws which command obedience, and not the edicts of anybody else. However, the law of nature stands above, its commands take precedence over the positive laws framed by any government. Thus, a government cannot have absolutely arbitrary power over the people, nor

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28 Locke's writing can be slightly misleading here. For example, in Sec. 124, he says that, "the great and chief end, therefore, of men's uniting commonwealths and putting themselves under government is the preservation of their property." However, the term is obviously used here to include life, liberty and possessions. In Sec. 87, for example, he says, "Man--hath by nature a power not only to preserve his property—that is his life, liberty and estate. . . ."

29 See ibid., Sec. 131, p. 186.
the right "to destroy, enslave or designedly impoverish the subjects." 30 The government is made to preserve and further these ends to the maximum possible extent for the greatest number of people and not to do otherwise.

From the fact that the government is established for certain ends, fulfillment alone of which justifies the authority accorded to it, it follows that when the government does act contrary to the realization of such ends, it loses the trust of the people; and they have in such a case the right to remove or alter it. 31 An absolute government, then, is not consistent with the law of nature and with men's natural rights. For this leaves no protection for the people against misuse and tyranny of the ruler. There has to be some "fence" against the violence and oppression of the ruler, if a ruler turns out to be so. To advocate an absolute government as a remedy to the state of nature, then, would be, as already shown above, like thinking that "men are so foolish that they take care to avoid what mischiefs may be done to them by polecats or foxes, but are content, nay, think it safety to be devoured by lions." 32

We now turn to our question in sense (2). What makes it fair that some men should have political power over others? Such a question implies that all men are equal in the sense that they have a moral claim to be free of controls on their behavior and will by others. In other words, arbitrary control by one or some men over others is not consistent

30 See ibid., Sec. 135, p. 189.
31 See ibid., Sec. 149, p. 196.
32 See ibid., Sec. 93, p. 167.
with the concept of equality and basic freedom of man. And since political authority implies an arrangement in which some men have power over others, it needs, therefore, to be justified.

The question would be meaningless for persons who did not share the underlying belief about the fundamental equality and dignity of human beings. For example, most people do not believe that animals have moral claims on human beings to be treated with respect and dignity, and therefore do not ask the question of what makes it fair that men control, modify and check the behavior of lower animals. If they did believe, however, that animals have a right to be treated equal and free, then such a question would be quite legitimate. Again, if they held such beliefs that men are by nature born to be masters or slaves, superiors or inferiors, rulers or ruled, the question of justification in the sense (2) would lose much of its significance. For one could then retort that there is nothing unfair about masters ruling over the slaves and so on.

Now both Hobbes and Locke share the egalitarian view of man and his liberty. It is only to be expected that the expression of this conviction will be in the current terminology of their times. Thus for Hobbes, men are by nature equal. Every man in the state of nature has a natural right which consists in the liberty to do whatever he deems fit for his self-preservation. According to Locke, in the state of nature all men are equal and independent. The state of nature is "a state of perfect freedom to order their actions and disperse of their possessions and persons as they think fit within the bounds of the law of nature, without leave or depending upon the will of any other man." It is a
state of equality in which "all power and jurisdiction is reciprocal, no one having more than another." 33

The question of justification then is significant for both Hobbes and Locke and is resolved by the concept of voluntary consent given in a covenant. If man has a natural right of absolute liberty to do anything, or a perfect freedom from dependence on the will of other men, then the only way in which a limitation of such freedom or an abrogation of this absence of dependence on other people's will can be fair is if men voluntarily agree to impose such limitations upon themselves. Thus, men agree to limit their freedom and invest their power in a sovereign whom they will obey (Hobbes). And thus, Locke declares that men remain in the state of nature where nobody has power over them, until they "by their own consent make themselves members of some political society." 34

(2T. 15) Again, in an even stronger way,

Men being, as has been said, by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties and a greater security against any that are not of it. 35

The question of fairness and justification in terms of consent has important implications for political obligation. If consent alone

33 See ibid., Sec. 4, p. 122.
34 See ibid., Sec. 15, p. 128.
35 See ibid., Sec. 95, p. 168. Also see Secs. 87, 90, 97, 106.
makes authority justified in the sense (2), then it follows that a government which comes to power on the basis of force alone and is not based on the expressed will of the people, does not have any moral claims to obligation on the part of its citizens. It does not matter what form of government the people of a country choose to have. As long as it assumes power and wields it in a way which is expressly agreed to by the people, it meets the criteria of justification in sense (2). Thus a people may choose to be governed by one, or an assembly. If they were all adults and did not intend to have any children, they could put the power in the hands of one man or an assembly for lifetime without violating this criteria. But since this has never been, nor is likely to be the case in the future, it seems desirable that they exercise this right to choose their governors periodically; first to make sure that their will is being carried out, to alter or change the governors, and secondly to give an opportunity to the younger members of the community who are just attaining adulthood to express their will.

The criteria of fairness can be satisfied completely only in an ideal situation where the agreement of the people is unanimous. But since this is not very likely to happen, people always being of different opinions and ideas, the next best course to take is to let the will of the majority prevail. Do, then, the minority who dissented still have the moral obligation to obey the government? Strictly from the point of view of (2), it seems that they do not.

Now it may be said that this is not strictly true, for when people set upon themselves the task of choosing a government, to whom
they will owe political obligation, it is implied that they have this prior agreement, implicit if not explicit, that the will of the majority be binding on all; so that even though the minority that loses does not give its consent to the government formed by the will of the majority, they are still obligated to it, because of the prior agreement to abide by the decision of the majority. In other words, it is a case of indirect agreement, or consent. But this regulative principle that the opinion of the majority shall be binding must in itself be a decision by the majority; and therefore, it is quite possible that the outcome in some cases does not have even the "indirect" consent of some people. Are they obligated?

There are other difficulties in basing obligation on consent and we have outlined them systematically in the introduction above. We may conclude that the criteria of fairness alone does not provide us with an adequate account of justification and questions related to it. We have seen that even in Hobbes and Locke, the champions of Consent, we can deal with these questions more satisfactorily from the point of view of ends. Consent is useful in so far as it acts as a check on the governmental power, and helps make sure that the cherished values and results for which the government was established are being preserved.
CHAPTER V
CONCLUSION

Methodologically, the usefulness of the distinction between "legitimacy" and "justification" which we made in the introduction is now seen even more clearly. As we remarked there, the term "legitimacy," largely due to the use to which it was put by Max Weber, has come to be associated with the normative rules or system of rules which justify authority from the procedural point of view. It is coeval with what is conveyed by legality or legal validity; to confine investigation to justification in this sense would be to miss the main point of most of the thinkers considered. For, as our study reveals, Manu and Kautalya, Confucius and Mencius, Lao-Tzu and Chuang-Tzu were not primarily concerned with the question of legitimacy as the term is being used here. It may be objected here that we could use the term legitimacy to mean what we have meant by justification. But as we have pointed out above, this would not really do. Some additional reason would include these considerations. First, due to the procedural associations which the term legitimacy has acquired, if we use it in place of the broader "justification," it would tend to emphasize the formal criteria at the cost of the substantive, and we have contended that this is not desirable.

Secondly, if we use the term "legitimacy" in place of "justification," we shall then need another to do the job which legitimacy does in

\(^1\)See introduction, pp.
our analysis. Thus, we really gain nothing by such a move, but lose considerably in clarity.²

Since the values of a society define considerably the attitude toward the political goods which are deemed to be the proper ends of governments, a study of these values, therefore, provides us with a framework within which we can have a more coherent and comprehensive understanding of political phenomena. To understand the basis of authority of any society, we need to know the values, or in David Apter's phrase, "the moral intentionality" of a people. It is the given values and purposes of a society which will in the final analysis provide us with a genuine justification of political authority.³ In fact, it may be argued that to limit the discussion to legitimation is to stop halfway. For, legitimatizing normative rules of systems of rules themselves are in the final analysis defined by the accepted values of a society. To take an example for our study, Locke's constitutional principles were founded on the value he placed in life, liberty and property and his belief that certain kinds of arrangements were the best guarantee for realizing them.

We shall briefly describe how discussion of political justification in terms of values provides us with coherent answers to the central questions of political philosophy. To the question when is political

² The distinction is implicitly accepted by a wide range of political thinkers such as DeJouvenal in Sovereignty, D'Entreves in "Obeying Whom" and "On the Nature of Political Obligation" Philosophy, Vol. XLIII (Oct., 1968), and B. Baron in "Real and Mythic Obligation," Ethics, Vol. LXXVIII (Oct., 1967).

³ This view is supported by Talcott Parsons in "Authority, Legitimation, and Political Action," Authority, pp. 197-221; by Herbert J. Spiro, in "Authority, Values, and Policy," in Authority, pp. 49-57, and by David Apter in his The Politics of Modernization (The University of Chicago Press, 1965).
obedience or even rebellion justified, the answer is in terms of the failure of the ruler to maintain and preserve the dominant values on which authority depends. Manu and Kautalya only dimly see the full implications of their views, though the *Mahabharata* and *Shukraniti* clearly speak of the ruler who fails to preserve *dhārma*, bring security, and maintain harmony and stability through the caste system, as a leaking boat which must be discarded, or as a bandit who ought to be avoided. Desertion, banishment and even murder of such a king is justified. This is well illustrated by the story of *Vena*. Confucius and Mencius believed that unless a man was extremely virtuous, he would not attain the mandate of Heaven, and not having it, he would be disabled from maintaining and preserving *li*, the source of the greatly cherished values, order and stability. He will not be fit to provide economic security and such conditions as are conducive to the moral development of his people. A non-virtuous king, then, is unable to maintain the dominant values of the society, forfeits his claim to genuine authority and is reduced to being merely a *pa*. A *pa* is one who rules on the basis of sheer force, and it is right that he be banished or even killed, not only may he be disobeyed.

In spite of the procedural orientation of Hobbes and Locke, the values of bare survival in the case of Hobbes, survival, property and freedom in Locke, play a dominant role in their political thinking. Hobbes' sovereign, when unable to provide protection to his subjects, loses his right to obedience, no matter what the contents of the contract. In Locke, a tyrannical government, one which infringes upon the very

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4 See Chapter II, p. 52, above.
values for which governments are created, loses all claims to genuineness and the subjects have then a right to revolution. Thus, in all the cases, the basic values provide us with intelligible answers to this question. In Manu and Kautalya, the cherished value is the preservation of a particular social order, one defined by caste system, and the protection or security is to be provided in this framework. Individuals are always members of a caste, and the preservation of the social order is more important than that of individuals. Contrasted to individualistic values of Hobbes and Locke, the values stressed in Confucius and Mencius are also centered in the community. Thus, while each individual has the right to disobey when his own personal life and liberty are in jeopardy in Hobbes and Locke, such a right is not granted to the individuals by Manu and Kautalya, Confucius and Mencius. Concerned more with the welfare of the community as a whole, they grant individuals the right to revolt only when the social structure is threatened, when the caste system in one case and \( \text{li} \) in the other are in danger. The Taoists provide us with an even more interesting instance of this. Since they believe in absolute freedom and a return to original simplicity of human nature, they see the very existence of political authority as anachronistic. Thus, the image of man as a purely autonomous person as in Hobbes and Locke, derives the values of participation, cooperation, political obligation etc., from the self-interest of the individual.

The image of man as essentially a member of a social whole, as in Manu and Kautalya, Confucius and Mencius, places on the top cooperation, loyalty and fulfillment of responsibilities appropriate to one's station in life. The welfare of the individual is valued as a means to and
in so far as it does not throw in disorder the society in which he lives.

The image of man as essentially a part of nature as contrasted to social wholes, as in Taoism, holds in low esteem a rigid social structure and places freedom in harmony with nature, simplicity and enjoyment of life-in-nature at the top.

With the exception of Hobbes, our thinkers advocate that no values are safeguarded when absolute power is accorded to the ruler, or when no checks are placed on the exercise of his power. The nature of checks advocated, of course, differs. Thus, Manu and Kautalya curb the power of the ksatriyas, the ruling class, by giving the brahmans a great deal of political influence, by defining the duties and rights of kings within their caste structure, by the double ended notion of danda, and by spiritual sanctions. In Confucianism, Hsun-Tzus—the gentlemen scholars, are comparable to the brahmin class in political influence, and within the theory of the mandate of Heaven, the importance of the cultivation of virtue, the people's will etc., are designed to play the curbing role. Locke's criticism of Hobbes in this respect and his insistence that certain checks and guarantees against arbitrary misuse of power must be spelled out, have already been noted. Now, it is a generally held opinion that the absolutist theory of political authority is favoured by a teleological kind of justification. Since, so the reasoning goes, it is the ends which are important and not the procedures if it could be shown that a benevolent dictatorship could bring about these ends better, then

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5 See Chapter IV above, pp.
it would be justified even though it is a dictatorship. Our study does not support such a view and reveals at least two considerations against it. First, it is not true historically. Most of the philosophers we have discussed take a value-oriented approach, but do not, however, favour absolute government. As already noted, they carefully spell out balancing and curbing factors. Perhaps they considered it a matter of experience, of empirical evidence that absolute governments, in fact, are not the best protectors of the cherished values of the people. Secondly, as in the Taoist philosophers and Locke, the justificatory values may include values such as liberty and an active participation in government as an essential element of well-being. Thus, advocation of checks on political authority is quite consistent with the value oriented justification of authority. Nor does this kind of justification have to give up the procedural criteria altogether. The consent of the majority, though not adequate in itself to explain political obligation, may yet be of great use to us as an indicator of the extent to which substantive criteria are being fulfilled. Thus, in so far as active political participation may be regarded as an essential element of good living, and in so far as lack of consent and absence of settled procedures for political participation increase the risk of exploitation by the rulers, which exploitation may now be defined as the use of political power for personal gains rather than for the realization of the desired values, the consent or other procedural criteria do have an important place in political justification.
All our thinkers believe that force alone cannot provide the basis for political obligation. It is true that Manu and Kautalya advocate a heavy reliance on coercive power, on danda, but danda is not the basis of authority, it is rather something which a man by the virtue of his being in authority rightfully yields, and as we have noted above, there are conditions put on its use. The most important of these is that it must be used to realize the ends accepted as the proper ends of government. In Confucian and Taoist thought, not only is a clear distinction between moral force and coercive power drawn, but also it is held that one who rules by coercive power is not a king in the true sense of the word, and has no claims whatsoever to obligation. An ideal ruler should not have to use coercive force at all. Hobbes and Locke hold the use of force to be necessary to ensure that the job which the government is created to do is done; but, of course, both carefully argue and point out that force in itself cannot be the ground of political obligation. Thus, the notion of politics as nothing but a complex of force relations, where some command and others obey, is rejected. If the state were only a system of organized coercive power and the laws merely a body of rules concerning the use of force, neither the state nor law could ever claim obedience. There would be no obligation, only submission to superior force.

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6 Rousseau's statement seems to sum up this point concisely, "Force is a physical power, and I fail to see what moral effect it can have. To yield to force is an act of necessity, not of will--at the most, an act of prudence. In what sense can it be a duty?" (Gewirth, ed., p. 62.).
Our study supports the remarks we made in the Introduction about the inconclusiveness of the current main theories of justification. Thus, although the Hindu as well as the Confucian thinkers bring in divine sanctions, the former via a theory of Divine origin of kingship, and the latter through the mandate of Heaven, these references to Divinity are not decisive, and in fact are brought in to do the job of theorists would like them to do. By themselves they do not illuminate political phenomena we are dealing with. Thus, though Vena is of Divine origin, he is nonetheless killed by sages and brahmins when he fails to maintain the dominant values of Hindu society. His being divine does not seem to have helped him very much. Again in Confucian thought, once a ruler has lost the mandate of Heaven, he is done with. But who is to decide when such a mandate is withheld and how? The ways in which this is settled is by observing whether the ruler having cultivated virtue is maintaining and furthering those dominant values which provide the true sources of authority. These include people's welfare with an emphasis on their economic prosperity, **li** and **jen** which emphasize harmony and stability.

In the Introduction and Chapter IV, we noted the difficulties in basing obligation on consent. It may be interesting to note that it does not play a very important role in the thought of Eastern philosophers. Confucius and Mencius, indeed, bring in the voice of the people as one of the important factors in good government, but it is brought in indirectly through the will of Heaven, and in any case, it is not advanced as a ground for political justification in the sense in which the consent theory attempts to. Kautalya advises the king not to go against the public opinion in too open a manner, since it is not wise to rouse the
people. This is a council of prudence and is far from resting political authority on consent. In fact, even at the cost of partial repetition, we observe that the deontological criteria, the question of justification of authority in the sense of what makes it fair does not seem to have bothered the Eastern philosophers very much.\textsuperscript{7}

The emphasis on values draws our attention to the belief systems of a society which form their source. The kind of values that are stressed and the ways in which they are to be realized are inextricably tied to what Hannah Pitkin has called the "metapolitics" of a people. Although there are many elements which constitute these belief systems--the metapolitics of a people, we shall confine our attention to the ones which have played a more central role in political justification, namely the varying views on the nature of man and of the universe. For Hobbes as well as Manu and Kautalya, the world we live in is harsh and cruel and in which, to use a Hobbesian phrase, each is in a state of war against others. In the Hindus' beloved metaphor, it is ruled by m{{\textit{s}}\textit{acyanyaya}}, the laws of the fishes in accordance with which the bigger fish swallow the smaller. Given such a concept of nature, it is understandable that the most important value emphasized should be that of peace, protection, stability. These are the minimum conditions for the realization of any higher goods, and if the world is characterized by m{{\textit{s}}\textit{acyanyaya}}, these not being easy to attain, claim supreme attention. Their rather unflattering concept of human nature does not help very much. Men are greedy, selfish,\textsuperscript{7}

\textsuperscript{7} See Chapter IV above for the questions raised by the "fairness" criteria.
deceitful, haughty and vain. Each seeks his own advantage. Thus the prescription to use force, and that, in liberal dosage, follows the advocacy of concentration of power in Hobbes and a heavy reliance on danda in Manu and Kautalya.

Contrasted to this is the Confucian view of the world and man. It is a universe in which men lend themselves to be ruled by moral force. Bestowed with a human nature which is originally good, they need not be treated by coercive force. On the other hand, the ruler who sets an example by being himself a model of virtuousness lays sound foundations for the acceptance of his authority, not only by his own subjects but also by other princes and kings.

The influence of metaphysical beliefs on politics is seen even more clearly in Taoism. Since the Ultimate Reality, Tao, is one, indeterminate, without distinction, so the ideal society should reflect this. Thus, contrasted to the very structured society of Confucius and Mencius, Manu and Kautalya, the Taoist society is one in which the distinctions, clearcut divisions and fixed roles, are minimized. Human nature in its originality is simple, healthy and content. In a state of nature they live in utmost independence, naturalness and unconcern. There is, then, no real need for the creation of a system in which some command and others obey. Political society succeeds only in killing this original simplicity and freedom and replacing it by misery, competitiveness, greed, lust and slavery. There is then really no justification for the existence of political society. However, since men have already, due to corrupting doctrines thrown themselves into a state of confusion and lost the original simplicity; what is needed, perhaps, is a rule of the sage. The
term "rule" here is actually a misnomer, for the sage king returns everything to its original simplicity by not ruling. Thus if there is to be government at all, it has the peculiar function of doing nothing, for by doing nothing are achieved the cherished values—unconcernedness, indifference, simplicity, and absolute freedom.

To sum up, this study shows that values, in fact, play a central role in political justification. They provide us with a framework which is broader than the one provided by legitimacy. Our study shows that not only does it make perfect sense to raise the question of justification over and above that of legitimacy, but also that we shall miss some very important features of political life if we stop at legitimacy, and do not raise the questions which go beyond it. The framework of values facilitates our understanding of political phenomena and illuminates the questions relating to authority and the corresponding obligation to obey. The question, "Why should I obey a particular government?" can be raised and discussed in the context of the accepted values of a society, which values themselves for part of the religious, metaphysical beliefs of that group.

The other more abstract question, Why a person should obey any government at all; what justifies, not the authority of this or that government, but authority as such, cannot be so easily answered. We are here raising a question of justification which goes beyond the framework of the culture-bound values. A satisfactory answer to this question must depend on the possibility of establishing values which are not confined to a particular society for their existence and validation. Only after having established such a "validation base," "international yardstick,"
"universal values," criteria by which the value-orientation of any society may itself be evaluated, can one attempt to answer the general question concerning the justification of political authority.

We may note at the very outset that we cannot establish such a value base by merely showing that certain values are common to all cultures. An international yardstick constructed on the basis of universally common values, would escape the charge of ethnocentrism, but it would still need to be established as normatively compelling. Common values without further validation have a claim only with respect to prevalence, but not to normative validity. An act is not right just because it is universally performed; in other words, empirical research would be able to tell us just what is the value system of a person, society or epoch, but cannot tell what this ought to be. The universality of assent, even if it can be attained, proves neither the objective validity of a judgment nor the compelling nature of an imperative.

What then are the criteria which may be used to validate values? We shall note here the main approaches to this question.

1) First is the ancient way of justifying values by deriving them from "a divine order" or "the will of a good and benevolent God." Thus, the justification of the socio-political order defined by the caste system\(^8\) is sought in the will of God, which is known to the sages and rishis directly or through the word of the Vedas. We have seen above the central role of the mandate of Heaven in Confucian thought,\(^9\) and the

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\(^8\) See Ch. II, above.

\(^9\) See Ch. III, above.
suggestion is present in the thought of Locke when he defends his basic rights of life, liberty and property by reference to the "order" of "one omnipotent and infinitely wise maker."\(^{10}\)

2) The second approach to the problem leaves God aside, but insists that values have self-existence and that they subsist independently of the consciousness or knowledge of them. They are "objective," "objectively" real and, in the process of grasping them, we also apprehend their normative force.\(^{11}\) Thus they do not need to be established, only discovered. But it may be objected that values existing independently of valuations fail to explain the bewildering differences in value systems of different people. This is countered by showing the increasing evidence of common and invariant elements in thinking about values throughout cultures. Thus consensus, though inadequate in itself to establish the validity of values, may be brought in as evidence for the objectivist's case. His main reliance, however, is not on such a discoverable/not discoverable agreement; he simply insists that it is our "look" that "wanders," and so the relativity in values can be explained completely by reference to the relativity of our apprehension. Untainted "reason," "intuition," "sympathetic perception," will reveal those absolute values in their purity; and if all mankind had these faculties fully developed, there would be no variances in their perception.

Suggestions of this kind of approach are present in Locke's doctrine of Natural Law and the Taoist's mystic intuition of the Tao.

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\(^{10}\) Locke, *Second Treatise*, p. 123.

3) The other two approaches attempt to derive universal values or find confirmation for them in human nature. A distinction is to be made between those who base values on an essential, ontologic human nature, and those who rely on empirical, existential nature. The former hold that values are autonomous because they are rooted in man's essential being. This essence of man is something different from his actuality; it has a normative, transcendent character. As such empirical analysis, factual observation, or the study of man as done in the empirical sciences, i.e. psychology, sociology, anthropology, biology etc., cannot grasp the essential nature of man. "It can be grasped, not by logic and factual observation alone, but by intuition, by ontological reason which grasps being itself."12 Thus the essentialists agree with the objectivists in so far as both reject empirical investigation as irrelevant to the establishment of values; but whereas the former give a self-subsistence to values, the latter reject that as indefensible and root them in man's essential nature.

4) The second approach in the Human Nature category seeks to ground values in the nature of man--that nature which is discovered by empirical and scientific methods, rather than the ontological essence discoverable by intuition. The locus of values is now sought in the needs and aspirations of man--biological, psychological, social etc. Thus "The constituents of the valuational base will clearly represent a

fusion of universal and local elements. The universal are the fundamental human needs, the perennial aspirations and strivings, and the discovered high values that are deeply rooted in these needs and aspirations.13 "Survival," "protection," "property," "economic security," "order" and "harmony" etc., in Manu and Kautalya, Hobbes and Locke, in Confucius and Mencius, are values based on man's needs as a biological, social being. But only Hobbes is a pure representative of this type; since when pressed, Manu and Kautalya allow one to fall back on other higher values which in turn justify themselves by reference to a cosmic order or "divine will." The same is true of Confucius and Mencius, with respect to the concept of the mandate of Heaven. For Hobbes, however, there is no further appeal than to self-preservation which is taken to be self-justified.

We have outlined above the main approaches to establish "universal," "absolute" values, an "international yardstick" or a "valuation-base." Unfortunately, all of them seem to suffer from serious shortcomings. The first three approaches fail in so far as they start from premises or state unproved truths which cannot be verified in an intersubjectively conclusive manner. In the absence of verifiability, they suffer from dogmatic postulation of unproved truths. As Brecht puts its, the attempts to base it on intuitional evidence, "with no

verification offered other than obdurate insistence on the correctness of the intuition" must fail to provide intersubjectively transmissible knowledge.\textsuperscript{14}

The last approach escapes this criticism, in so far as the question of "human needs" and "aspirations" is open to empirical investigation and is capable of being verified. But it suffers from another weakness, which is shared by all theories which seek to derive values from facts. How do you derive what ought to be from what is? One cannot say that since one has a drive, one ought to satisfy it unless one assumes that human drives ought to be fulfilled, which merely post¬pones the question of validation a step further. Besides, aggression, destruction, hostility, cruelty, self-centeredness are as much a part of human nature as altruism, love, courage, etc. But not even the humanists advocate that the former ought to be fulfilled just as much as the latter. It is clear that we need a criterion to separate the positive from the negative aspects of human nature. To admit this, however, is to concede that human nature, in itself, does not provide us with a principle of validation.

Where does all this leave us, then? We have said above that the answer to the philosophical question about authority must depend on the possibility of criteria provided by validated "universal values," but we have seen now, that all the major approaches to this question suffer from grave shortcomings. Should we, then, say that it is impossible to go beyond cultural conditions, and that the answer to question of political authority must be given only in the context of a society? That is,

\textsuperscript{14} Brecht, \textit{Political Theory}, p. 387.
should we say that the general question we posed in the introduction is unanswerable and so perhaps should not be asked? It would seem that in the light of the above-mentioned considerations of the difficulty of establishing a universally valid axiological criteria, it should be reasonable to take such an attitude. But to do so would be to assume that further avenues in this direction are closed, which may be unwarranted. It is true that at present value theory seems to be in an impasse, but one cannot conclude that it is impossible to develop a universally valid criteria of evaluation. In fact, we see something of a beginning in this very study. We have noted the frequent recurrence of "survival," "internal order," "security" in our thinkers. We cannot justifiably include these in our valuation base simply on ground of their commonality, but perhaps there is a good reason for their being the common denominators. Working on this suggestion we may find the beginnings of an approach which does not suffer from the defects mentioned in the others. When we look closely for a good reason for the prevalence of these values, we find it in the fact that a minimal actualization of these values is a precondition for the realization of any other higher values, for the possibility of a "good life" however that may be defined. Now, it may be objected that the values established on such considerations would be those kind which generally lie on the very bottom of the ladder. Some philosophers may even go to the extent of saying that these are, precisely speaking, preconditions of values and values proper only in a weak sense of the term. It may be said, then, that an international yardstick which is constituted only of such values, would be a poor criteria for evaluation of specific value-orientations.
In response to this objection we wish to point out that a criteria built of such elements, poor though it may seem initially, has the merit of not suffering from the shortcomings of the other solutions and so is worthy of serious consideration. Secondly, it must be pointed out what we have discovered so far constitute only the preliminary elements in the general criteria of validation. From more studies of this nature other contributory elements may be extracted. Criteria more fully developed on these lines would include more than the basic values of survival and stability and so should be able to meet this objection adequately.

Concluding Remarks: The Value of This Study

This study notes the inadequacy of the current theory of justification of political authority, and though it does not outline a new theory, it points to a right direction in this matter. It provides us with a point of departure from which a fresh attempt towards a more adequate theory of justification may be made. In brief, I have outlined in it, a working hypothesis for a Special Theory of Justification and a General Theory of Justification.

At the Special level, the hypothesis is that on the basis of the shared values of a society in conjunction with their belief systems about man, nature, society, end-means continuum et cetera, we can make fairly accurate predictions about their answers to questions of political obligation, limits and checks on political authority, determination of political elites and so on. Verification of this hypothesis by an extensive study of various societies requires the development of a scientifically rigorous method by which we may discover and study the values and the relevant belief-systems of societies. This study, in so
far as it points to the need of developing such a method and invites testing by the use of such a method, provides us with avenues for further research. In this lies its contribution to comparative politics.

At the General level, if the question, "Why is there political authority at all?" is to be considered as a request for the explanation of the existence of political authority as a universal phenomena, then the answer proposed, again as a hypothesis, is this: Most societies in past as well as present, have regarded the existence of some kind of political authority as necessary for the realization of those values which are required for a good life, even though conceptions of "good life" and the means to attain it have differed widely. Hence, political authority to some extent and in some form exists almost universally.

But, if the question seeks a philosophical justification and not merely an explanation of the existence of political authority and political obligation, then the answers suggested above are not adequate. In order to answer the question in this sense, we will have to go into value theory to find a valid criteria to establish values which may be considered as morally compelling universally. I have noted the main four approaches to this question and have found them to be inadequate.

Towards the end, however, I have suggested an approach which, with further developments and refinements may take us out of the quagmire in which value theory is today, and yield a universal value criteria. In this lies its modest contribution to political philosophy.
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