On Hypothetical Contracts

Karim Barakat

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ON HYPOTHETICAL CONTRACTS

A Dissertation
Submitted to McAnulty College and Graduate School of Liberal Arts

Duquesne University

In partial fulfillment of the requirements for
the degree of Doctor of Philosophy

By
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ON HYPOTHETICAL CONTRACTS

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My dissertation develops a critique of Rawlsian social contract theory by arguing that the normative component of democratic practices must be grounded in nonpolitical reasons. With John Rawls’s rights-based approach, social contract theory has strongly resurfaced by focusing on consent as the basic condition for the formation of a just state. The emphasis on agreement leads Rawls to exclude historical, religious, or philosophical reasons from justifying the ideal conception of justice. Consequently, Rawls completely separates politics from any nonpolitical grounding. I argue, however, that Rawls’s project cannot account for its normative commitments unless it makes use of a nonpolitical ground. By invoking Foucault’s historicism and Hobbes’s materialism, I maintain that one way to justify political practices follows from conceiving the activity of political power in material terms. This materialism, moreover, makes room for recognizing
multiple forms of power relations that have developed historically. I contend, therefore, that a historical material analysis offers a better understanding of how political power functions, and thus allows us to conduct critique effectively. However, justifying normative claims cannot follow from such a descriptive view and must appeal to cultivating virtue in individuals. I argue that recognizing the pervasive operation of power relations should lead us to cultivate a skeptical attitude with regards to our own views. This skepticism, moreover, serves the purpose of reducing antagonism between different views in favor of a more engaged politics that jettisons the divide between public and private reason.
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LIST OF ABBREVIATIONS

Foucault


### Hobbes


### Rawls


Introduction

This dissertation develops a critique of Rawlsian contractarianism by questioning its basis and arguing for recognizing the role truth claims play in determining political allegiances. I put forward a Foucaultian-Hobbesian view that begins from an analysis of the material activity of power while identifying historical conditions that can be the target of critique. I maintain that we can derive a coherent conception of power from Foucault and Hobbes as affecting bodies, while disposing of metaphysical dependencies. Despite not having a metaphysical basis, my view will nonetheless be grounded in a historical analysis that, on the one hand, pursues an empirical method in identifying shifts, and on the other hand, maintains that historical constraints determine the boundaries of what we can think and do. Given that such constraints limit our thought, it would follow that long-term ideals cannot be reliably identified, which is why pursuing short-term normative dictates is more justified and more effective. One main consequence of my view is to recognize that commitments to truth, whether historical or metaphysical, contribute significantly to shaping political subjects. Political pluralism, therefore, cannot be reduced to mere disagreement over metaphysical commitments. Instead, for political intervention to be effective, it must act on people’s beliefs, even historical ones, while dissolving the distinction between private and public reason which shields commitments to truth from engagement and public criticism. Ultimately, justifying normative content can neither follow from this historical material account, nor from descriptive claims generally, but can only follow from appealing to specific virtues that render this engaged politics possible. I argue that this primarily entails being skeptical of one’s own commitments to truth.
Though it is difficult to reduce contractarian views to a shared basis, the common thread of using the contract as a model for ordering political relations has been historically subject to criticism. Most prominently, in his 1748 essay “Of the Original Contract,” David Hume puts forward a critique that unfolds in three main directions. First, Hume argues that though from a historical point of view some states may have been founded as an outcome of agreement, the vast majority of states emerged as a result of conquest and usurpation. Even where agreement did obtain, Hume argues that there is no justification for why ancient agreements would still be binding for different generations in the present. Given that actual consent in the present never ensues, it follows that agreement cannot be the basis for an obligation to obey the laws.¹ Hume maintains that to argue that contract adequately describes political relations is straightforwardly false, as “[w]e find, every where, princes who claim their subjects as their property, and assert their independent right of sovereignty, from conquest or succession.”²

Second, Hume contends that the notion of contract fails to account for those who cannot be reasonably recognized to have a choice. If we accept the contractarian approach, then obeying the laws must result from the voluntary consent of every individual. Yet voluntary agreement appears to be seldom present, and arguing for tacit consent as the basis for legitimacy also fails to take into account cases in which tacit consent is not a matter of choice. In an often-cited excerpt, Hume asks

Can we seriously say, that a poor peasant or artizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to

² Hume, “Of the Original Contract,” 188.
day, by the small wages which he acquires. We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.³

One might consider tacit consent to ground obligation for those who have the opportunity to leave to a different state. However, allegiance is often not the result of voluntary agreement, whether tacit or explicit, when it involves those who cannot even entertain the possibility of pursuing a life elsewhere.

Finally, Hume argues that in the absence of actual consent, one can simply appeal to utility to justify obeying the laws. It is simply in the interest of society that laws are formed and followed. On the one hand, an argument for avoiding a state of chaos or war ultimately appeals to utility in order to mitigate self-interested inclinations. It is because we recognize that obeying the laws is a prerequisite for having a society, which improves everyone’s condition, that we limit the passions that promote our own interests. For Hume, this argument ultimately rests on utility.⁴ On the other hand, even if we suppose that such contract is binding, we can only justify abiding by our agreement by appealing to utilitarian considerations. Arguing for political obligation based on agreement begs the question of why we have an obligation to maintain our agreement. For Hume, one can only offer a utilitarian argument based on improving the condition of society generally, which does not necessarily presuppose any form of voluntary consent.⁵

Hume’s arguments offer good reasons to reject justifying obligation to the laws by appealing to actual consent. However, more recent forms of contractarianism have been concerned with hypothetical consent as a basis for political obligation. The emphasis on a hypothetical agreement is most clearly exemplified in John Rawls’s *A Theory of Justice*, which led to the strong re-emergence of contractarianism following its publication in 1971. In *Theory*, Rawls aims at offering an alternative to utilitarian and intuitionist approaches of justifying political commitments. (TJ vii-viii) Rawls’s recourse to contractarianism serves the purpose of introducing a rights-based approach that develops out of agreement. (TJ 4) Rawls avoids the problems Hume had raised by recognizing that actual agreement is too strong of a condition, which is why he resorts to maintaining that this agreement need only be hypothetical. (TJ 12) On the one hand, this renders consent, whether explicit or tacit, irrelevant. On the other, historical agreements are also not relevant for determining present obligations. For Rawls, as long as the rightly motivated individuals would have good reason to agree to the principles of justice – understood in terms of fairness – then the purported principles can be recognized as legitimate. (TJ 16) Based on this account of justification, Rawls maintains that theorizing in an ideal manner must have priority in political philosophy without necessarily disposing of concerns regarding feasibility. Only after the basic principles of justice have been laid out should we consider how it is that we can apply them within a community. (TJ 245-47)

However, as Rawls’s work further develops, the initial aim of the project becomes less ambitious. Rawls's reliance on a Kantian ethical justification for politics is replaced with a freestanding politics that is intrinsically moral. If agreement is what matters, then grounding a political view on Kant’s ethics becomes problematic given the contentious
nature of any ethical doctrine. Agreement, thus, requires that no comprehensive doctrines are used in justification. (PL xlv) Moreover, it requires that we set aside our beliefs and commitments. For Rawls, then, what we take to be true or morally right is irrelevant for a procedural politics that is concerned with arriving at a stable society beginning from a reasonably pluralistic community. (PL 36, 42-43)

The focus on agreement, especially in its procedural element, also weakens the goal of offering an alternative justification to utilitarianism for political legitimacy, and the question of justification fades into the background. The outcome becomes one of simply putting forward a coherent account that we would accept as long as we are already committed to liberalism. Given that our justifications will often conflict, and since what justifies the principles of justice must be agreed upon, then it is less a matter of what the content of our justifications is, and more a matter of whether we have similar views. (PL 141) Consequently, Rawls’s later project becomes one that is concerned with putting forward a consistent and feasible view on the condition that we all already accept the basic stipulations of liberal democracy.

Rawlsian contractarianism has been subjected to a number of criticisms issuing from different directions. Whereas Robert Nozick contends that Rawls’s account of justice is too restrictive and that justice requires the presence of a libertarian minimal state that only acts to protect the rights of individuals, Michael Walzer argues from a communitarian perspective that justice must be embedded in the social meaning produced
by communities. Amartya Sen, on the other hand, suggests a conception of justice that follows from Adam Smith’s sentimentalist approach and thus rejects Rawls’s ideal conception of justice, replacing it with a comparative one. From a different approach, Habermas focuses on a dialogical requirement for ensuring the presence of a relatively impartial attitude that precedes any agreement, but dialogue itself must follow from an analysis of what discourse presupposes. Alternatively, in Situating the Self, Seyla Benhabib targets Rawls’s veil of ignorance through arguing that abstracting from the particular situation of individuals reduces their otherness to sameness. Several objections have also been raised focusing on Rawls’s inability to resolve issues pertaining to race and gender. Charles Mills argues that Rawls disregards the requirement of corrective justice, and thus overlooks the necessity of including remediation in his conception of justice. Alternatively, Carole Pateman, Martha Nussbaum, and Susan Okin put forth feminist critiques of Rawls focusing on the genderless nature of the original position that fails to take into account the structure of society that is already shaped by gender.

differences and family, while simultaneously being unable to address the question of justice in cases involving an imbalance in power.¹¹

Significantly, however, the extent to which Rawls is able to offer justifications for his normative commitments has been largely overlooked. My focus, therefore, will be on questioning whether Rawls’s view offers compelling reasons to accept justice as fairness by examining the objections he raises against Hobbes. In his Lectures on Political Philosophy, Rawls identifies several shortcomings that plague a Hobbesian approach to politics. His view promises to offer an alternative that can adequately address these issues. By arguing for a democratic basis for stability, Rawls maintains that Hobbes fails to put forward an account of a stable society without appealing to absolute sovereignty, a concern Rawls attempts to address throughout his hypothetical contract between reasonable individuals. (LH 85)

But whereas Rawls emphasizes the unacceptable consequences of Hobbes’s view, a parallel critique of Hobbes focusing on the nature of political power was put forward by Foucault. Foucault develops a completely different conception of political power by arguing for the inadequacy of Hobbes’s view. Foucault maintains that Hobbes relies on a juridical conception of power that grounds it primarily in nonpolitical capacities. Instead, Foucault promises to offer a material view of how political power operates by referring throughout his works to a micro-physics of power and to force relations that inherently involve resistance.

Yet I argue that Rawls and Foucault maintain mistakenly that Hobbes’s position neither offers the means to guarantee stability nor is able to account for political power that functions at the material level. I contend that Hobbes, in fact, introduces a material view of the passions that not only justifies instituting the state through agreement, but also provides the means to reinforce the stability resulting from the exercise of absolute power by the sovereign. An account of stability, therefore, partly unfolds in Hobbes’s view in terms of the virtues conducive to peace that citizens should acquire. Like Foucault, then, Hobbes develops a material account of politics recognizing that a normative view must begin by taking into account how political power functions. I argue that in contrast to a Rawlsian ideal view, this material conception of politics emphasizes the need to begin from a description of how subjects are influenced by political power. Only then can we justify appealing to normative claims in order to justify concerns arising out of encountering individuals who have different commitments.

However, Hobbes’s position, given its pre-Kantian character, justifies its political claims by appealing to a metaphysical materialism, one that Foucault cannot endorse. Reconciling the two positions involves, therefore, showing how the substance metaphysics to which Hobbes is committed can be transformed into a historical method akin to the one Foucault endorses. Ultimately, I maintain that normative political conclusions can arise out of a Hobbesian argument, empirically verified by appealing to history, that sheds light on the instability resulting from the absence of a state and virtuous individuals.

My aim throughout this dissertation is to argue for the absence of a ground for Rawlsian contractarianism. Though Rawls may indeed fail to respond to a number of
problems that arise out of his commitment to a narrow conception of justice, I maintain that his view also fails to offer any justification for pursuing the normative goals he specifies. Alternatively, I argue that the material view of politics I develop out of the work of Foucault and Hobbes can provide a basis that begins with identifying metapolitical conclusions, from which we can derive short-term normative goals. I, therefore, argue for privileging a non-ideal approach to politics that recognizes the need to begin by offering a view of the nature of social relations as contingent on historical material practices.

In chapter one, I argue that Rawls’s political turn in *Political Liberalism* fails to offer justifications for the conclusions he derives. I evaluate Rawls’s view in relation to three criteria he argues are missing in Hobbes’s position; accounting for reasonableness, ascribing a social role for politics, and attaining stability independently of invoking absolute sovereignty. Rawls puts forward a compelling view in *Theory* by arguing for a Kantian based view of liberalism. However, in his later work, Rawls recognizes the inadequacy of the Kantian presupposition given his focus on agreement. Rawls, therefore, replaces the Kantian basis with moral dictates that are based on an existing overlapping consensus in the community. I maintain, however, that this move runs into three main problems. On the one hand, Rawls appears to presuppose a notion of a well-ordered society that determines who counts as reasonable, and thus who is included in an agreement that purportedly determines the principles of justice for this society. This leads to a circularity that Rawls cannot avoid. On the other hand, by appealing to an existing overlapping consensus, Rawls fails to offer justifications for his view and instead appeals to values that are merely institutionally instilled. Consequently, in the absence of
doctrinal commitments that can serve as a basis for the political conclusions, Rawls is unable to resolve the problems he argues are present in Hobbes’s view.

These problems in the Rawlsian project lead me to explore in chapter two a different approach that also arises in response to Hobbes, that of Foucault. Whereas Rawls focuses on a hypothetical agreement and disposes of the material aspect of Hobbes’s politics, Foucault chooses to retain the material element while arguing for the redundancy of the notion of contract. Foucault argues for reversing the Hobbesian basis for rights that he locates in nonpolitical capacities which constitute political subjects upon instituting sovereignty. Instead, Foucault argues against a view that appeals to the origin of rights in order to justify political practices. Foucault, therefore, maintains that political power is often exercised in a manner that is decentralized, unlike power possessed by the Hobbesian sovereign, and that functions by targeting bodies. The material operation of power, therefore, cannot be reduced to one that arises out of agreement between individuals and resulting in a centralized state, but must be recognized as constituting subjects through micro operations. I maintain that though Foucault develops a view of power that arises from analyzing the inherent political element in relations of inequality, this account of power can only be at odds with Hobbes if we reject Hobbesian materialism.

Chapter three, therefore, takes at its object linking the political conclusions at which Hobbes arrives to a material basis. I argue that Hobbes’s politics should be understood as grounded in his material conception of the world that comes to affect and determine how individuals behave. In order to establish this conclusion, I argue against a Straussian reading maintaining that Hobbes rejects metaphysical materialism and
recognizes instead that knowledge is freely constructed in a geometric form. I argue that
the geometric method in Hobbes does not serve the purpose of merely constructing
knowledge, but rather requires that causation is introduced into the method itself. By
including causes in definitions, Hobbes recognizes that we can arrive at knowledge of
causation analytically, which would render a geometric approach based on correct
definitions scientific, and thus certain. Understood in those terms, Hobbes is committed to
a metaphysical materialism that grounds his politics. Ultimately, the role of consent and
contract in Hobbes’s politics is undermined by his rejection of any meaningful sense of
freedom, which renders consent entirely determined by material conditions, and by
maintaining that contract need not be the result of actual free consent but may result from
conquest. I argue, therefore, that the state of nature in Hobbes’s view should be
understood as a historical state, but also as a definition of the state that follows from
invoking a geometric method to politics, which makes use of universal definitions
including that of a state of nature. As I maintain in chapter two, this material basis for
Hobbes’s politics renders his view compatible with that of Foucault.

Chapter four explores the consistency between the views of Hobbes and Foucault
further by arguing that Hobbes recognizes the positive role political power plays in
shaping individuals. By identifying the role of conatus in shaping individuals and
justifying the drive for self-preservation, I contend that the positive role Foucault assigns
to political power is amenable to the account Hobbes develops in influencing the passions
of individuals. The conative structure of the passions provides Hobbes with the means to
argue for arriving at stability at least partially through modifying the objects of the
passions of individuals, and therefore constituting them as virtuous citizens inclined to
peace. However, maintaining that the two conceptions of political power is consistent does not render Foucault’s view redundant. Based on Foucault’s insistence that his view should be understood as Kantian, I argue that Foucault’s genealogies should be understood as undermining the necessity and universality of conditions that have made possible specific claims to knowledge. The historical approach reveals their contingency by showing how they were fabricated in specific moments for specific purposes. By replacing necessity with contingency, the historical approach provides an answer for what political analysis is possible in the wake of Kant’s critique of metaphysics. This allows us to couple Foucault’s view with Hobbes’s argument for the need to cultivate virtues in citizens, by historicizing the acquisition of virtues that lead to peaceful dispositions.

Finally, having argued for the coherence of a Foucaultian-Hobbesian view, chapter five engages Rawls again by maintaining that Rawls fails to account for the role of truth claims in politics. I, first, argue that the descriptive nature of Foucault’s account renders it difficult to derive normative implications, apart from a negative normative conception that justifies equality by delegitimizing inequalities. Nonetheless, one key conclusion I derive from Foucault’s view pertains to the relevance of truth claims in politics. I show how Rawls retains a minimal role for truth commitments in his political account and does not allow for critiquing the beliefs of citizens. I argue for arriving at normative conceptions by appealing to Hobbesian justifications that aim to ward off a bellicose state of nature. Ultimately, this requires that we cultivate virtues in individuals that render them inclined to peaceful engagement through encouraging agonistic politics. Given the emphasis on the role of truth claims, a central virtue will have to be skepticism or modesty with regards to one’s own views. I argue that rendering this view effective
will require eliminating the divide between public and private in order to make critique of beliefs possible.

Putting forward a material conception of power relations offers means by which we can begin to justify democratic practices by referring to actual social relations. The rules that govern social relations are not ahistorical and do not rely on a transcendental basis. They are instead entirely historically contingent, which leads to two main consequences. On the one hand, recognizing the role of historical formations in determining social organizations indicates that political problems are themselves formed by these historical conditions. Examining the historical background, therefore, does not serve simply to shed light on the problems at hand while offering no insight as to normative conclusions. Instead, the historical constitution of a problem determines how it is that we can effectively approach it by gradually transforming elements that are taken to be fixed and unchanging. Consequently, abstract arguments that have a universal scope are inadequate to address political problems.

Second, we should understand our own rational capacities as also constrained historically. This should impel us to endorse a sober skepticism that is weary of positing long-term ideals or specifying unchanging conditions for political inclusion and reasonableness. This leads to a political approach that cautiously pursues the aim of bringing about gradual political transformations. Recognizing our limitations, however, should also lead us to be weary of simply defending the status quo. Instead, though normative claims must be recognized as historically limited, they can still be introduced with some generality. Ultimately, specifying short-term normative dictates avoids
invoking justifications that retrospectively justify existing social relations and renders political critique more forceful.
Chapter One

The Normative Grounding of Reasonableness

The resurgence of social contract theory following the publication of *A Theory of Justice* has led to focusing on hypothetical contracts as a means to justify political stability. Rawls develops a procedural political account that relies on a hypothetical agreement in order to arrive at the basic structure of institutions. However, critiques of the role of political institutions, especially those of Foucault, have led to doubts concerning the adequacy of such agreements. Foucault develops his genealogical work in response to a conception of power he finds in Hobbes and social contract theory generally. Yet, evaluating Foucault’s rejection of contractarian power necessitates fleshing out Rawls’s contemporary form of contractarianism that claims to discard Hobbes’s understanding of power in favor of a liberal model.

The implication of Foucault’s critique inevitably leads to questions concerning the grounds of justification in politics. On the one hand, this casts doubt on the possibility of justifying normative claims. If political values are historically inculcated by the activity of power relations, advancing normative content cannot follow from a negative conception of freedom. Instead, it appears to rely at least partially on the passivity of individuals. On the other hand, this critique also raises the problem of the function of publicity in political discourse as Rawls conceives it. The role assigned to publicity since Kant has been to offer a degree of convergence between different conflicting views in order to render politics based on agreement possible. The success of this convergence, however, will not only depend on resolving doctrinal differences, but will have to rest on the adoption of common historical narratives as well. Ultimately, as I will argue in
chapter five, political action will attain a certain relationship with truth claims. These truth claims are not metaphysical, and do not necessarily have to be true. Instead, their significance lies in the fact that they are taken to be true by citizens. Political action will have to target the beliefs of citizens and cannot set aside their commitments to historical narratives in favor of mere doctrinal convergence as Rawls argues. Once this is recognized, the sought-after convergence over a set of principles becomes more difficult.

Though it is unclear Foucault can provide us with a solution to the first problem of normativity, his analysis of the transformation of the role of political power offers tools to rethink politics itself. In other words, at the meta-political level, a precondition for the success of a political view requires that one is aware of the pervasive role of power relations. One main challenge to this view can be identified in Rawls’s contractarian account, which attempts to develop sufficient justifications for normative content independently of metaphysical or historical claims to truth.

In order to account for political justification, Rawls begins by rejecting a Hobbesian view that inevitably leads to an absolute sovereign. Rawls takes Hobbes’s view on contractarianism to be inadequate in terms of its failure to account for stability for the right reasons, the absence of reasonable incentives, and the lack of a social role of morality. Instead, Rawls advances a version of the contract that he labels initially as Kantian. This shift towards Kant introduces a version of the social contract that focuses on rights, and thus identifies in agreement the precondition for setting basic principles that serve as the grounds for legitimacy. The justification Rawls offers for his appeal to contractarianism has two implications. First, Rawls specifies a merely pragmatic reason for his commitment. For Rawls, while one should not be hopeful to resolve
disagreements over conceptions of the good, we can still attempt to arrive at an agreement with respect to basic procedural matters. The challenge that Rawls faces, however, is how to put forward an understanding of agreement that is not reducible to mere self-interest and thus lacking stability. In other words, the view Rawls introduces attempts primarily to respond to the problems he argues are present in Hobbes.

Second, the identification of politics with proceduralism allows Rawls to distance himself from metaphysics. A political view that endorses agreement as determining legitimacy must be recognized as constructivist. Consequently, the validity of principles that follow from this agreement does not arise from a certain relation with truth, or from an underlying metaphysical reality. Instead, validity depends on the mere fact that individuals agree on these terms and act out of that agreement. As such, one main advantage of conceiving of politics on the model of the social contract is rendering metaphysics irrelevant at the meta-political level. Yet, Rawls’s view wavers on what kind of justification or ground one can offer for politics. At first, Rawls chooses to develop a Kantian account that grounds politics morally. This emphasizes the notion of moral persons with powers that are capable of acquiring principles of justice due to a learning process. Rawls, however, soon realizes that this view entails exclusionary commitments that render his account inconsistent. Consequently, he chooses to abandon this approach in favor of a freestanding political view. In order to be able to include under his political view various forms of liberalism, Rawls shifts the grounds of politics from one dependent on a number of Kantian moral notions to a view that is self-sufficient.

This chapter will, therefore, focus on the extent to which Rawls is able to ground his political account following the problems he identifies with Hobbes. I begin with the
reading Rawls offers of Hobbes and focus on these objections as motivating his general account. I, first, examine Rawls’s *Lectures on the History of Political Philosophy*, in order to identify three shortcomings that Rawls finds in the Hobbesian characterization of practical reason and the state of nature. I refer to Rawls’s Kantian move in order to show how he attempts to resolve these problems while shedding light on the dependence of this view on moral conceptions that are not reducible to politics. I argue that the Kantian view, however, is susceptible to the problem of feasibility Sen puts forward. I, then, shed light on the amendments Rawls introduces in order to develop a freestanding political account that manages to partially respond to doubts concerning feasibility. Rawls attempts to offer a stable view of society by appealing to the sense of fairness of citizens along with an existing overlapping consensus. But whereas the Kantian view is able to account for stability, reasonableness, and the social role of morality, Rawls’s freestanding view escapes the charge of feasibility, but fails to successfully avoid the problems he locates in Hobbes. I argue, therefore, that Rawls’s view fails in three respects. First, Rawls’s inability to offer a standard for determining the reasonableness of citizens and doctrines leads to one of two conclusions. Either his view is not to be regarded as one claiming universal validity, or it will necessarily be exclusionary to other liberal views. Both conclusions are not ones Rawls would be willing to accept. Second, the view of moral psychology introduced cannot be understood as belonging to an independent sphere, but must be justified by appealing to a comprehensive doctrine. Finally, I argue that Rawls overlooks the problematic role institutions play, by his own lights, in inculcating liberal ideals in individuals and thus violates his commitment to the “freedom” of citizens in the original position. Ultimately, developing a freestanding
politics appears to be inadequate to account for the problems Rawls locates in Hobbes’s view.

Rawls’s Reading of Hobbes

In *A Theory of Justice*, Rawls identifies his account as contractarian, one that finds affinities with the views of Locke, Rousseau, and Kant, while distancing itself from Hobbes. Rawls states,

I shall regard Locke’s *Second Treatise of Government*, Rousseau’s *The Social Contract*, and Kant’s ethical works beginning with *The Foundations of the Metaphysics of Morals* as definitive of the contract tradition. For all of its greatness, Hobbes’s *Leviathan* raises special problems. (TJ 11n)

These “special problems” Rawls identifies with *Leviathan* lead him towards articulating an account that promises to avoid introducing an absolute sovereign as a necessary condition for the success of a political view. Accordingly, Rawls follows a liberal democratic approach that we don’t find articulated in *Leviathan*, which draws a wedge between Rawls’s position and that of Hobbes. Consequently, the soundness of Rawls’s position can be partly determined by how well he manages to resolve these problems he identifies with Hobbes.

In his *Lectures on the History of Political Philosophy*, Rawls introduces an interesting reconstruction of Hobbes’s account that, on the one hand, sheds elements he deems unnecessary for Hobbes’s argument, and on the other hand, offers strictly political justifications for some of Hobbes’s commitments. To begin with, Rawls disposes of Hobbes’s materialism while focusing on his political view as an independent edifice, arguing that materialism plays little to no role in influencing the political conclusions of
While setting aside any metaphysical basis for Hobbes’s politics, Rawls maintains that Hobbes’s psychological account follows directly from “common sense observation” along with the influence left by Thucydides, Aristotle and Plato.\textsuperscript{12} (LH 29)

But regardless of whether the political account is to be understood on the basis of Hobbes’s materialism, the question that Rawls chooses to focus on first is how we are to interpret the state of nature along with the social contract. Rawls maintains that the state of nature in Hobbes’s view should be understood primarily in terms of how “civil society could have been generated - not how it was actually generated.” (LH 31) Rawls, thus, rejects a historical reading of the state of nature in favor of a hypothetical one.\textsuperscript{13} Of course, Hobbes doesn’t appear to straightforwardly endorse this claim, but Rawls argues this is the conclusion Hobbes is warranted in drawing. Given the hypothetical threat of


\textsuperscript{13} Rawls treats the state of nature in Hobbes as entirely hypothetical. Yet, as Hampton maintains, Hobbes seems to recognize that states have in fact been formed by the people. The state of nature does not strictly serve a hypothetical normative role for justifying the existence of the state, but further offers an explanation for why it was rational historically to form a state, regardless why it was actually formed. Alternatively, Pettit offers a different interpretation arguing that the primary function of the state of nature along with the contract that follows from it is to offer a view on the “true nature” of the state and the “characteristics” that any state must have. I will return to the question of how to interpret the state of nature in Chapter three. Hampton, \textit{Hobbes and the Social Contract Tradition}, 273. Pettit, \textit{Made with Words}, 118.
the state of war in the absence of a sovereign, rational individuals have an interest in arriving at an agreement to be guaranteed by the sovereign. (LH 14)

But if we regard the state of nature on hypothetical grounds, the question that follows is why we should conceive of it as a state of war. While rejecting the classical psychological egoist reading of Hobbes, Rawls maintains that Hobbes allows for benevolent activity from human beings. Yet, Rawls also contends that the account of conflict that Hobbes stresses does not arise out of those benevolent passions, but rather is based on desires that seek to preserve oneself, leading to competition, diffidence, and eventually war. In order to resolve this apparent inconsistency in Hobbes between ascribing benevolent desires on the one hand while emphasizing self-centeredness on the other, Rawls maintains that Hobbes focuses on the relevant traits for politics in the state of nature. It follows, then, that though Hobbes recognizes our capacity for altruistic behavior, his view develops out of emphasizing certain features of human psychology. These features are self-interested, prone to conflict, and thus constitute the grounds for transitioning towards a unified society. This focus, then, leads Hobbes to identify the purpose of the state in terms of allowing us to preserve our own lives. (LH 46, 51) But more importantly, Rawls takes Hobbes to also shed light on the shared nature of those

15 This can be contrasted with the position Hampton introduces. Hampton argues that the cause of conflict in the state of nature cannot be reduced to the passions, for vainglory, being one of the passions most prone for conflict, can only strongly develop within a community where reputation has significance. For Hampton, the individualistic state of nature Hobbes introduces cannot make room for such social passions. Moreover, locating conflict in the passions minimizes the role for self-preservation in war. Hampton, thus, argues that shortsightedness through not realizing the benefits of cooperation is best suited to account for conflict in the state of nature for Hobbes. Hampton, 73-74, 81–83.
traits, for we share “fundamental interests” as human beings, including those of desiring a commodious living and self-preservation. Emphasizing what we share constitutes the basis for moving towards an agreement that produces the state, for independently of those shared passions, there is no basis upon which individuals can agree.\textsuperscript{16} (LH 48)

The significance of focusing on this understanding of war in the state of nature is that it presents human beings as relatively stable and unaffected by social institutions. Though Rawls recognizes that Hobbes puts forward an account of how education, culture, and laws can transform us to some degree, he still maintains that essential features of human beings remain the same all throughout. These are the basic interests in “self-preservation, in conjugal affections, and in the means for commodious living.” (LH 42) But these features go beyond our basic needs and also include traits we find in society today. Rawls takes Hobbes to argue that if we examine the way human beings act in society, we would be able to understand how they would act in the state of nature. While referring to Hobbes’s argument from experience in the state of nature, Rawls contends that basic self-interested desires not only remain active but also are not susceptible to transformation in the presence of social institutions. Consequently, the basic traits leading to conflict we find in the state of nature are essential characteristics of human beings. (LH 41-42) This leads us to the first main problem Rawls locates in Hobbes’s view. Rawls argues that we do not find in Hobbes’s contract an account of how politics, or morality for that matter, plays a role in shaping individuals.

Having specified basic unchanging human desires as the focus of Hobbes’s argument, \textsuperscript{16} We’ll see in the next section that Rawls adopts this procedure of beginning with shared notions.

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\textsuperscript{16} We’ll see in the next section that Rawls adopts this procedure of beginning with shared notions.
Rawls raises the question of motivation and practical reason in Hobbes. Hobbes’s laws of nature involve demands of reciprocity that guarantee social cooperation. (LH 61) However, Hobbes justifies those principles by entirely appealing to individual self-preservation. Abiding by the laws of nature follows from being concerned with our own interests. Yet, for Rawls, this omits a capacity for reasonableness that is needed to arrive at social cooperation without coercion. Rawls begins by distinguishing the rational from the reasonable, a distinction he argues is not present in Hobbes. Whereas rationality is defined in terms of satisfying one’s own interests, reasonableness involves “fair terms of cooperation.” (LH 54) Cooperation, however, develops out of working for the rational advantage of one’s self, and in this sense reasonableness always presupposes rationality. Yet, Rawls maintains that reasonableness requires an additional component, that of justice arising out of reciprocal relations. Reciprocity would impose constraints on what each individual can do for the sake of furthering her advantage, and thus cooperation presupposes the capacity to honor the terms of these reciprocal relations. (LH 56-57) Accordingly, Rawls argues that Hobbes problematically justifies the reasonable content of the laws of nature in terms of “collective” rationality. (LH 55, 66)

This leads Rawls to introduce a major argument against Hobbes, that of lacking grounds for moral obligations and political rights. (LH 66) For Rawls, such rights should

17 Rawls argues that these distinctions are not present in Hobbes and derives them from the account he introduces as I will show in the next section. 18 Rawls limits the function of reason in Hobbes to an instrumental role. This view, however, has been challenged by several commentators. Bernard Gert, for instance, argues that Hobbes makes use of a more “basic” sense of reason, what he refers to as “natural reason.” This use of reason is not instrumental in the sense that it does not simply serve the passions, but sets rational ends for improving the conditions of human beings. Bernard Gert, “Hobbes on Reason,” Pacific Philosophical Quarterly 82, no. 3–4 (September 1, 2001): 248, https://doi.org/10.1111/1468-0114.00127.
be grounded on something other than the rational, a view that Hobbes cannot incorporate.

Rawls finds in Hobbes a conception of obligation that is strictly rational in order to account for his constructivist view of politics. Yet, for Rawls, Hobbes still fails to offer grounds for reasonableness independently of self-interest. The relevant question Rawls attempts to tackle, then, is how to provide a constructivist account that would simultaneously be able to offer reasonable grounds for obligation. If Rawls is right in specifying one of the roles of political philosophy in terms of negotiating an ideal of justice with the practically possible, and thus providing a view of a “reasonably just, though not perfect” political order, then offering a justification of social coordination must follow from different grounds than the ones we find in Hobbes. (LH 11) This constitutes the second problem Rawls locates in Hobbes’s position.

The criticism of the grounds of reasonableness paves the way for an additional problem Rawls raises against Hobbes’s view, that of developing stability. As is explicit in Hobbes’s account, the sovereign plays the role of “stabiliz[ing]” the contract. Rawls appeals to the prisoner’s dilemma situation to argue that agreeing to the terms of the contract, though conducive for the well-being of both prisoners, is unstable due to the mutual mistrust between the parties. What guarantees that we eventually arrive at

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19 Generally, Rawls will refer to his account as constructivist in terms of appealing to agreement rather than attaining moral truth. I will return to the notion of constructivism for Rawls in the next section, but at this point, David Gauthier’s Hobbesian view can be regarded as constructivist. David Gauthier, *Morals By Agreement* (Oxford: Clarendon Press, 1986).

20 Rawls follows David Gauthier in depicting conflict in the state of nature in terms of the prisoner’s dilemma. But Pettit rightly argues that the prisoner’s dilemma is not an adequate representation of Hobbes’s state of nature. The dilemma suggests that my defection from the agreement results in the best outcome for myself. Yet, Hobbes maintains that only the “fool” would not follow the laws of nature. This does not mean
stability in Hobbes’s situation, where covenants can be relied upon and agreements hold, is an absolute ruler. In the absence of a sovereign, the contract will not be observed, and we return to the state of nature. (LH 77-78)

The sovereign, therefore, changes what Rawls refers to as the “background conditions” to which individuals refer in their rational decisions. Rather than changing the psychological traits that lead to conflict, the presence of a sovereign ensures that it becomes rational to obey the laws of nature. Therefore, the sovereign simply adds another condition that will be taken into consideration out of self-interest. (LH 78) What guarantees this stability, for Hobbes, is authorizing the sovereign absolutely, and consequently, disobeying laws can never be rationally justified. Therefore, the laws of the sovereign are just by default, though not necessarily conducive for rational interests of individuals in a community, or “good” as Hobbes uses the term prior to any agreement in reference to one’s appetite. (LH 83)

Whereas Hobbes considers the condition of absolute sovereignty to be necessary for that stability will automatically follow, but that rationally, such an agreement is even better than being a lone defector. Alternatively, Jean Hampton does not draw a link between the stability of the scheme and the sovereign. For Hampton, following the laws of nature is rational simply because it is conducive to our preservation. Laws of nature are, thus, “hypothetical imperatives,” which once obeyed provide us with a better chance of survival. Hampton maintains that the “regress argument” in Hobbes is what justifies unlimited power for the sovereign, for imposing limits on power requires a greater power, which eventually requires positing a sovereign with unlimited power. For Hampton, the sovereign is needed given the inability of human beings to agree on laws, and thus the need arises for a single arbitrator. Both Pettit and Hampton are partly correct in their characterization. Yet, it is clear that Hobbes also invokes the sovereign with absolute power to stabilize society, not because we would otherwise pursue our interest of not abiding by the laws of nature as Rawls maintains, but because we simply do not often act rationally. This requires according to Hobbes invoking fear in subjects as the reliable passion for stability. Gauthier, Logic of Leviathan (Oxford: New York: Oxford University Press, 1979), 79; Pettit, Made with Words, 112–13; Hampton, Hobbes and the Social Contract Tradition, 90–92, 98-104.
moving towards a stable community, Rawls rightly argues that this claim can be disputed on mere historical grounds. As Rawls maintains, “we know, I think, that Hobbes’s substantive theory can’t be, in general, correct; since constitutional democratic institutions that violate his conditions for the Sovereign have actually existed and have not been noticeably less stable and orderly regimes than the kind of absolutism that Hobbes favored.” (LH 85) Accordingly, stability under the constitutional system Rawls espouses must exist alongside a democratic procedure rather than being guaranteed by absolute power. This explains why Rawls considers it necessary to justify reasonable commitments independently of rational self-interested motives. For Rawls, “institutional cooperation” under Hobbes’s view is precluded due to the absence of the notion of “reasonable self-restraint in the sense of a willingness to forgo permanent and long-term benefits as judged by one’s own rational self-interest,” and the lack of a “sense of fairness, as illustrated by his having no account of fair background conditions of binding covenants.” (LH 87)

Rawls maintains that reasonable self-restraint and fairness are essential to social cooperation, which involves reciprocity and willingness to abide by one’s obligations on the condition that others do so too. As Rawls argues, for Hobbes, this willingness will always be bound by one’s self-interest and cannot be justified on the basis of social relations. Hobbes accepts that it is rational for each person to reciprocate, but he supposes that we do not act on the basis of self-restraint for its own sake. For Rawls, “[t]hese reasonable desires … have no part in [Hobbes’s] account of human psychology, at least insofar as political questions are concerned.” (LH 88) Even if such desires exist in Hobbes’s scheme, they are simply ineffective and unreliable. Accordingly, Rawls
presents his project as attempting to “recast [the Social Contract view] so as to provide…a framework within which the content of the notions essential to social cooperation - reasonable self-restraint and fairness - can be defined or outlined.” (LH 88)

Though Rawls finds that these conditions are partially satisfied in Locke’s view, it is ultimately in Kant and the concept of a moral person that his account begins to address these problems before finally developing an independent political view.

From Kantian Constructivism to Freestanding Politics

The previous section presented three problems Rawls identifies with Hobbes’s position and suggested that one way to determine the viability of his view is in terms of how successfully he responds to these problems. Disentangling politics from metaphysics leads Rawls to locate a moral ground for his political philosophy. Prior to shifting to the “freestanding” politics introduced in Political Liberalism, Rawls conceives of solutions for the three problems he identifies in Hobbes with reference to a Kantian position. This Kantian view appears to be able to justify normativity by appealing to the notion of a “moral person” possessing moral capacities including reasonableness. Offering Kantian moral grounds for normativity allows Rawls to provide justifications for conceiving of society as stable for the right reasons and account for the social role of politics. This section will first be concerned with shedding light on the moral justifications of Rawls’s Kantian position while introducing the problem of feasibility Sen introduces. I argue afterwards that the Kantian view is susceptible to the charge Sen puts forward. However, the question of whether Rawls is able to avoid the feasibility problem with his freestanding account, while simultaneously responding to the problems he locates in
Hobbes, depends on fleshing out the political notions of publicity along with the overlapping consensus to which I move in the next section.

Rawls contends in the preface to *A Theory of Justice* that the theory he develops is “highly Kantian in nature.” He later emphasizes the Kantian undertones of his view in several essays following the publication of *Theory*. (TJ viii) In “A Kantian Conception of Equality” and “Kantian Constructivism in Moral Theory,” Rawls outlines the procedural starting points of his view, while shedding light on the relation between equality and Kantian freedom. Rawls specifies two main ideals with which we procedurally begin, that of the well-ordered society, along with the second ideal of free and equal moral persons. For Rawls, since political theory is primarily concerned with constructing the bases for resolving a *moral* question, it requires providing an account of moral persons that have specific formal qualities. The ideal of a well-ordered society, on the other hand, is to be understood as one whose members accept and know the public conception of justice, whose social institutions express the principles of justice, and finally where this conception is founded on methods of inquiry that have been agreed upon. Beginning from this liberal democratic ideal, stability will ensue as a result of perpetuating the principles of justice through public expression. This in turn allows for reaffirming the commitment of citizens to this specific understanding of justice. (KCE 255-56)

Yet, to see how this view responds to the problems Rawls locates in Hobbes, it is essential to develop further his Kantian account. Central to his thesis is the application of Kantian ethics to the social sphere, which brings to the forefront a number of key formal
concepts.²¹ These notions allow Rawls to specify the basic conditions relevant for the question of justice. Rawls conceives the fundamental political question as one arising out of a philosophical incompatibility between freedom and equality. The former is conceived on the Lockean liberal model that emphasizes freedom of conscience, while the latter follows from the priority Rousseau assigns to the equality of political liberties. (KCMT 307) The question that follows is how to develop a political view that maintains both freedom and equality which Rawls contends are necessary for a well-ordered society. Consequently, Rawls introduces a hypothetical original position, in which conflict arises from different conceptions of the good. Resolving the problem of difference requires an agreement on the basic principles of justice. Hypothetical agreement, thus, serves as the basis for constructing the principles of justice under conditions that render personal preferences opaque. Kantian constructivism, then, emphasizes the role of agreement, and “holds that moral objectivity is to be understood in

²¹ To present this view as Kantian raises the problem of compatibility between justice as fairness and Kant’s politics. But Rawls recognizes this departure, and he is quick to note that his view is not identical to Kant’s. To label it as Kantian “expresses analogy and not identity,” being a “doctrine [that] sufficiently resembles Kant’s in enough fundamental respects so that it is far closer to his view than to the other traditional moral conceptions.” (KCMT 304-05) In fact, justice as fairness uses certain Kantian notions to develop a political account, while disposing of the overarching framework we find in Kant’s politics. The extent to which Rawls’s view can be considered Kantian has been subject to criticism by a number of commentators such as Onora O’Neill and Larry Krasnoff. Alternatively, in “Rawls and Kantian Constructivism,” Kaufman highlights several overlaps between the view that Rawls introduces and that of Kant. I will be less concerned with the actual overlap between the two and more with introducing Rawls’s position coherently. It is noteworthy, as this section will point out, that Rawls steps away from Kant in his later work to develop a strictly political position. Onora O’Neill, “Constructivism in Rawls and Kant,” in The Cambridge Companion to Rawls, ed. Samuel Freeman (Cambridge, U.K.; New York: Cambridge University Press, 2002), 351; Alexander Kaufman, “Rawls and Kantian Constructivism,” Kantian Review 17, no. 2 (June 2012): 229–35, https://doi.org/10.1017/S1369415412000040; Larry Krasnoff, “How Kantian Is Constructivism?,” Kant-Studien 90, no. 4 (1999): 385–409.
terms of a suitably constructed social point of view that all can accept.” (KCMT 307)

The fact that principles of justice are constructed for Rawls sheds light on a main Kantian feature, namely setting aside the question of truth in favor of merely practical considerations. Objectivity in politics, under Rawls’s account, must be severed from questions of truth and emphasize agreement instead. The practical nature of the political problem requires that we introduce a procedure that allows us to arrive at the most reasonable understanding of justice that all reasonable groups accept. The question is not one of attaining moral truth, but of determining principles of justice which persons find amenable to their conceptions of themselves in relation to society. As such, Rawls begins with the view that participants have of themselves, and from there, attempts to introduce some agreement through emphasizing shared aspects. Whereas this position is not grounded metaphysically, Rawls chooses a moral ground for developing his politics. Under his Kantian view, the formal conceptions of moral persons as free and equal hypothetically set aside their different conceptions of the good in order to shed light on shared principles.

Having started with basic commonsensical conceptions, or “model concepts,” of ideal social relations (well-ordered society) and moral persons, we are able to identify features that delineate the relation between individuals and society under conditions of freedom and equality. Moreover, moral persons are to choose ideal principles of justice to construct their well-ordered society independently of arbitrary distribution of wealth and power, or under a veil of ignorance. Specifying an understanding of a moral person becomes essential for Rawls’s project. In a Kantian vein, such persons must first be rationally autonomous agents taken in abstract from their daily civil roles. (KCMT 307-
What makes these persons moral is, first, their “capacity to form, to revise, and rationally pursue a conception of the good,” or what Rawls refers to as rationality, and second, recognizing that others are moved by similar motives of realizing their respective conceptions of the good. (KCMT 312) Consequently, Rawls embeds the notion of reasonableness he had argued was missing in Hobbes in the concept of a moral person. Therefore, moral personality also requires that persons have a “sense of justice,” and are able to act out of the principles of justice, or reasonableness. In fact, Rawls maintains that acting _out of_ a sense of justice is a necessary requirement to arrive at stability.

Though moral persons, as rational beings, are motivated to realize their conceptions of the good, these conceptions are unknown to them under the veil of ignorance. The motivation itself, however, is a necessary condition for the success of a political procedure. Independently of conceptions of the good that formally move persons in the original position, fair terms of cooperation would not be possible. In the absence of conceptions of the good along with desires to fulfill them, the political problem of pluralism disappears. But reasonableness simultaneously sets limits on rationality since it determines the boundaries for pursuing one’s conception of the good in relation to other members of the community. This limiting function of reasonableness emphasizes a key feature of Rawls’s Kantianism, for “[t]he priority of the right over the good is

22 The Kantian argument should be clear here, for merely acting in accordance with the principles of justice does not constitute moral persons that are able to constitute and agree to just principles.

23 This partly addresses the problem Rawls locates in Hobbes, but fully accounting for stability will require discussing Rawls’s notion of an overlapping consensus, which I will return to in the next section.
characteristic of Kantian constructivism.”\(^{24}\) (KCMT 319) The Kantian view Rawls endorses, therefore, departs from his picture of Hobbes’s position by maintaining that reasonableness is justified on its own grounds, through appealing to a moral capacity that is not reducible to calculative reason or self-interest.\(^{25}\)

Understanding moral persons engaged in a political agreement as reasonable provides the grounds for accounting for the other two problems Rawls argues are present in Hobbes. In order to arrive at stability, Rawls invokes the concept of “moral learning” which guarantees that persons “develop a desire to act” following the principles of justice. The idea of moral learning stresses the social role of political institutions. Furthermore, it depends on a psychological understanding of human nature in order to determine whether we can expect citizens to learn to act out of a set of principles. Ultimately, this rests on publicly recognizing the basic principles of justice, which for Rawls leads citizens to act out of these principles. (TJ 138, 145, 177) Consequently, given the specific conception of moral persons, Rawls’s view accounts for the reasonableness of individuals, the social role of political institutions, and finally ensuring that society will be stable as a result of this social role.

Nevertheless, grounding politics on moral presuppositions raises questions concerning the feasibility of Rawls’s view. In The Idea of Justice, Amartya Sen contends that Rawls offers no guarantee that an agreement will be reached upon a unique set of principles.

\(^{24}\) This view is also expressed in Political Liberalism. (PL 52)

\(^{25}\) Rawls’s account of the reasonable varies throughout his work. As Onora O’Neill argues, there are at least two different conceptions of reasonableness that we find articulated in A Theory of Justice and Political Liberalism. O’Neill also shows that Rawls’s understanding of “Kantian Constructivism” also varies between A Theory of Justice, “Kantian Constructivism in Moral Theory”, and Political Liberalism. O’Neill, “Constructivism in Rawls and Kant.”
principles of justice. Sen distinguishes between what he takes to be Rawls’s contractarian “transcendental institutionalism” on the one hand, and his “realization-focused comparison” on the other. The former is the result of defining a perfect sense of justice that is to be realized institutionally, one that does not begin with the question of the social realization of this ideal.

According to Sen, this raises concerns regarding the feasibility of transcendental institutionalist views, as it is unclear whether an agreement on the basic principles of justice would in fact ensue. Sen argues that even reasonable persons might not agree on a single set of impartial principles of justice. A political theory must, therefore, be able to incorporate several, possibly incompatible, conceptions of justice. Furthermore, Sen maintains that the transcendental solution is redundant. Given its ideality, it does not render superfluous the need for selecting a feasible solution among different applicable alternatives. The problem of the social realization of a conception of justice hinges on a distinction between agreement and actual realization. Sen maintains that the attainment of justice must be the product of a “gradual formation of behavior patterns” among citizens, which do not appear immediately upon agreement.

Sen takes his critique to apply to Rawls’s work generally. However, he refers primarily to Theory and appears to overlook for the most part the freestanding position

26 Sen also offers another argument, namely that Rawls limits his political view to the question of just institutions and disregards the role of non-institutional factors in social interactions. This is certainly an important objection, but it will outside the scope of this chapter. Amartya Sen, The Idea of Justice (Cambridge: Belknap Press, 2011), 6–7.
27 Sen includes Hobbes here, while interpreting Hobbes to be advancing an ideal conception of institutions that is not concerned with their realization. In Chapter three, I will be arguing against such a reading of Hobbesian contractualism. Sen, 6–7.
28 Sen, 9, 98–100.
29 Sen, 70.
Rawls adopts in *Political Liberalism* A freestanding political conception, according to Rawls, is not derived from a comprehensive doctrine, and though it is moral, it “must contain its own intrinsic normative and moral ideal.” The view that Rawls introduces in *Theory* is significantly modified in his later political turn. In *Political Liberalism*, Rawls maintains the notions of rationality and reasonableness, while severing the connection with a Kantian conception of moral persons. (PL xlv) As I will argue, shifting the grounds of justification from a moral comprehensive doctrine to a merely political one that entails its own moral ideals renders Rawls’s view more feasible. Yet, the absence of a nonpolitical ground raises again the question of how political constructivism can still take into consideration the three problems in Hobbes. Rawls modifies his position to begin with the strictly political notion of free and equal citizens as opposed to moral persons. As such, we arrive at reasonable and rational citizens that take part in the original position in order to put forward a view of the basic structure of society. (PL 380)

Given the independence of the political sphere from philosophical doctrines, however, rationality is linked with a capacity to hold comprehensive doctrines, whereas reasonableness is still grounded in a capacity to have a sense of justice. (PL 52) Rawls

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30 Intrinsically entailing a moral ideal means this political conception is moral, but in the absence of a comprehensive doctrine, rather than basing politics on morality, this suggests that the moral conception is itself justified politically. As I argue later in this chapter, the moral conception must follow from Rawls’s *political* notions of a well-ordered society or from overlapping consensus. (PL xlv)

31 Rawls provides an account for arriving at this conception of citizens through relating their wellbeing to primary goods. Going into the specifics of Rawls’s argument is certainly relevant to put forward a view of the basis upon which he develops his position, but it is beyond the scope of this chapter. (PL 187-90).

32 In the Introduction to *Political Liberalism*, Rawls recognizes that the view he advances in *Theory* counts as a comprehensive doctrine itself, which is why he moves away from a Kantian view towards a political one. (PL xviii)
does not explicitly specify how he arrives at this conception of an ideal conception of citizens apart from simply sticking to a liberal framework. In the absence of an independent moral ground developed out of a comprehensive doctrine, I suggest that one way to justify this notion of citizens is by beginning with the idea of an ideal society and working backwards to reach the citizens constituting a well-ordered society. The conception of an ideal citizen, thus, would follow analytically from the notion of a well-ordered society. Furthermore, this conception is supported empirically by the existence of communities that are “stable for the right reasons,” rather than being a mere *modus vivendi* that is the result of a contingent balance of forces.\(^3\) (PL 392)

By appealing to a freestanding political view, Rawls is able to partially respond to the objections Sen raises once the moral ground has been discarded. In his “Political Liberalism: Reply to Habermas,” Rawls argues that unlike Habermas who is concerned with identifying the basic conditions of communication, Rawls introduces the minimal basic requirements for a democratic procedure. Rawls maintains that the view he advances in *Political Liberalism*, like Habermas, does not presuppose a Platonic or Kantian reason, but rather a freestanding notion. Rawls adds “[n]o sensible view can possibly get by without the reasonable and rational as I use them.” (PL 380) Following the reading I have suggested, Rawls would argue that these two features of citizens constitute necessary conditions that make it possible to have a liberal democracy. As such, the basic question that concerns both Rawls and Habermas pertains to the conditions that make a democratic procedure possible. For Habermas, these conditions are those of communicative reason, which is manifested in communicative action,

\(^3\) This reading will be further motivated later in the paper.
whereas Rawls locates them in rational and reasonable citizens. (PL 381-82) Under this reading, justice as fairness becomes at least partially feasible, given that we only need to accept that liberal democracy is possible for the view to obtain. Once this is granted, Rawls’s view unfolds as an analysis of such necessary conditions. The question that follows, however, is whether we need some minimal agreement to begin with for a democratic procedure to be possible.\(^{34}\)

Nonetheless, by setting aside the notion of moral persons, Rawls’s account appears to fail to respond to at least one problem he identifies with Hobbes’s view, that of realizing the conception of justice socially. In fact, though Rawls invokes a “theory of moral learning” in Theory, his later Political Liberalism does not make use of such a notion at all. (TJ 430) The Law of Peoples, alternatively, appeals to moral learning cursorily as a needed process for the realization of an agreement on international principles of justice, or among nonliberal but somewhat reasonable societies. (LP 66, 71) Liberal societies, alternatively, already “must have political and social institutions that effectively lead its citizens to acquire the appropriate sense of justice as they grow up and take part in society.” (TJ 430) In fact, one main reason for not introducing moral learning in Political Liberalism can be explained by Rawls’s claim that liberal democracies already have an overlapping consensus over the values that must be learned. Rawls’s allusion to overlapping consensus as already existing in society minimizes the role of the process of moral learning in the political sphere. This leaves open the question of how

\(^{34}\) I suggest in the next section that Rawls doesn’t offer an argument for the privileged status of a political theory based on agreement.
Rawls can put forward a view of the social role of his political conception of justice if he disposes of such a psychological process, a problem I will return to in the next section.

But there is another reason for not appealing to moral learning in *Political Liberalism*. In *Theory*, Rawls maintains that moral learning “depends upon an account of the nature of morality and its various forms.” (TJ 430) Rawls’s earlier view on moral learning, thus, can only be part of a comprehensive doctrine, which he comes to realize is inadmissible into a strictly political account. Rawls still provides a political view on moral psychology, arguing that citizens are amenable to the view of liberalism he suggests, but the political moral psychology he puts forth requires a modified political view on moral learning to complement it.

Yet, the freestanding view that Rawls advances, one that does not presupposes a Platonic or Kantian view of reason, may lead to another problem, one that may arise out of his constructivism. One way to interpret Rawls’s political constructivism follows from a rejection of moral truths. Under Habermas’s reading, the constructivist aspect of Rawls’s view follows partly from a rejection of a moral realism that entails an independent standard for right, and partly from the recognition that agreement on any independent standard is far-fetched. For Habermas, what follows from rejecting moral realism is identifying political philosophy with finding the correct procedure. Habermas characterizes both his work along with that of Rawls as postmetaphysical. This feature of political thought follows from the absence of a Platonic truth one can lean on, or an

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35 Of course, Rawls can develop a view of moral learning that is merely political, which is something he makes note of in *The Law of Peoples*, but this is somewhat superfluous in *Political Liberalism* as I will argue in the next section. (LP 15)

absence of grounding in metaphysics. For Habermas, this leaves us in a state of “vertigo,” which ultimately results in conceiving of politics solely in terms of democratic proceduralism.37

But whereas this reading may be amenable to the position Rawls endorses in *Theory*, the *political* constructivism developed in *Political Liberalism* cannot follow from such a rejection. Rawls maintains that the view he expounds is consistent with all reasonable comprehensive doctrines, whether religious or philosophical in nature. If, as Habermas maintains, this view only follows from the rejection of moral realism, then it would be excluding a significant segment of reasonable doctrines. This means Rawls’s own view would follow from a philosophical comprehensive doctrine, as opposed to being political in nature. Consequently, the constructivist aspect of Rawls’s account does not stem from the rejection of metaphysical or moral truths, but rather from what is taken to be a requirement of liberalism, that the freedom and equality of reasonable and rational citizens comes to materialize in a well-ordered society as a product of a hypothetical agreement, or as a product of an actual consensus. Whether there are moral truths or not is irrelevant for Rawls, for given his practical concern, the relevant question cannot be whether there will be agreement on specific moral truths.38 Rawls recognizes the unlikelihood of that outcome, which is why he resorts to setting aside the question of truth entirely.

37 The disagreement between the two pertains to the kind of proceduralism to which each subscribes. I will be not concerned with expounding Habermas’s view. Instead, I will focus on the criticism Habermas raises against Rawls.
38 Though Rawls’s political conception is a moral one, it is severed from the question of truth. Objectivity in politics, under Rawls’s account, must be severed from questions of truth and emphasize agreement instead. I will return to the question of the relevance of truth in politics in chapter five. (PL 94)
This clarification of Rawls’s position provides further means to respond to the problem of feasibility Sen raises. Sen had expressed his skepticism with regards to the arrival at a consistent set of principles of justice under the veil of ignorance. Sen later makes a reference to *The Law of Peoples*, where Rawls appears to mitigate the requirement of a basic agreement between citizens. This weaker form of agreement appears as a “family of reasonable political conceptions,” as opposed to a single political conception.\(^{39}\) Sen, however, rightly points out the tension between this view endorsed in *The Law of Peoples*, and the one already presented in *Theory*. The inconsistency between the two views Rawls advances, however, should be explained by the shift away from Kantianism that Rawls undergoes in his later works. In *Political Liberalism*, Rawls explicitly distances the view he presents from the one he had introduced in *Theory*, where he had explicitly endorsed a comprehensive doctrine. Rawls maintains that the goals of *Theory* were too ambitious, and though its conclusions constitute a legitimate liberal view, it is only one among many. (PL xviii; LP 141) In *Political Liberalism*, Rawls aims at uncovering an already-existing agreement with regard to the basic structure of institutions. Rawls is, thus, committed to a minimal requirement for agreement in *Political Liberalism*, one that he maintains follows immediately from reasonableness and rationality taken as moral regulative ideas.\(^{40}\) This minimal requirement arises from Rawls’s commitment to the reasonable fact of pluralism along with irresolvable causes of difference, or what Rawls refers to as the “burdens of judgment.” (PL 54-55) The fact


\(^{40}\) Rawls considers that the view he introduces in *Theory* requires that all citizens have the same Kantian comprehensive doctrine. In *Political Liberalism*, he distances himself from this claim. This suggests that the agreement under a freestanding political view must be far more minimal than the one he had argued for in *Theory*. (PL xlii)
that agreement over the basic structure of social institutions is already present renders Rawls’s view more flexible. Challenging this claim requires showing that even such a minimal agreement is not available or possible, an argument that Sen does not put forward.

Under this reading, the question of the redundancy of “transcendental institutionalism” introduced by Sen will depend on the relation between institutions and society Rawls puts forward for realizing his conception of justice. It is noteworthy, however, that if we accept Sen’s argument that Rawls’s position is not feasible due to its ideality, then at worst, Rawls appears to offer the normative grounds for selecting between different options based on a political ideal. Rawls, however, maintains that this ideal can be realized at least to some degree. Nonetheless, though I have argued that Rawls’s account is more feasible than Sen suggests, it is still unclear how the social role of such a political account can be achieved in order to realize the conception of justice. Moreover, in the absence of a comprehensive doctrine to support moral presuppositions, the normative content of his view will need a different kind of justification. Responding to these issues requires exploring Rawls’s view of publicity and stability through shedding light on the idea of an overlapping consensus as I will proceed to argue in the next section.

**The Inadequacy of the Political**

The previous section introduced questions concerning the feasibility of Rawls’s Kantian account while emphasizing the modifications following the shift from a Kantian

41 The normative basis is indeed a problem, one that I will return to shortly. Sen, however, does not dispute the normative nature of Rawls’s view. Instead he focuses on ideality as problematic.
conception of justice to a freestanding one. Rawls’s attempt to render his view feasible involves specifying social conditions that are required for the realization of justice as fairness. I have argued that responding to the problems Sen raises requires shedding light on the account of the process required to instill the principles of justice in citizens.

Though this requirement is present in *Theory*, Rawls does not make a reference to such a process in *Political Liberalism*. In order to provide a more complete response to the problem Sen raises, this section focuses on the other two shortcomings Rawls identifies in Hobbes’s account, namely stability and the social role of institutions. Rawls attempts to account for such phenomena by presenting a freestanding political view in order to render his account consistent with various reasonable comprehensive doctrines. This requires treating politics as entirely separate from non-political grounds including material ones having to do with how the social role is manifested. Yet, whether this freestanding view works rests on being able to introduce a sufficient justification for the stability of the political scheme.

Rawls introduces different views on how stability is achieved between *Theory* and *Political Liberalism*. In the former, stability appears to result from the process of moral learning Rawls specifies, which is justified by the moral conception of individuals. Moral learning occurs due to the satisfaction of the publicity requirement Rawls introduces. In contrast, in *Political Liberalism*, Rawls retains the public function of justification but appeals primarily to the political idea of an overlapping consensus in order to account for the acquisition of liberal democratic values by citizens. In relation to Rawls’s reading of Hobbes, these arguments allow him to provide a social role for his political conception and maintain stability for the right reasons. This section will first consider Rawls’s
conception of a freestanding political view then proceed to introduce the role of publicity. I will finally put forward three arguments against Rawls’s account pertaining to the criteria for determining reasonableness, his view on moral psychology, and finally the role of institutions in instilling ideals.

Clarifying how stability is attained and what social role political institutions can perform requires first fleshing out Rawls’s separation of politics from metaphysics, especially when it comes to the capacities of citizens. In both, Kantian Constructivism and Political Constructivism, Rawls appears to presuppose a capacity to specify binding procedures of politics which would make it possible to construct principles of justice. Rawls distinguishes between three different perspectives when it comes to evaluating his political account; the perspective of individuals in the original position, the perspective of free and equal individuals under the veil of ignorance, and finally his perspective and that of the reader who are involved in developing a political theory. (KCMT 324; PL 70)

Nonetheless, the extent to which this third point of view can be reducible to a moral or political capacity is questionable and casts doubt on the independence of Rawls’s political account, or even the sufficiency of a moral ground. The activity of an individual in the act of construction suggests a need to posit a metaphysical subject on which such a political view depends. The question that follows is whether Rawls is able to contain his political view within freestanding politics or requires positing metaphysical entities for a coherent view.

Looking at the parallel with Kant renders this problem clearer. As Rawls notes, for Kant, our autonomy as rational beings follows from the fact of reason. (KCMT 340) But this is primarily the product of regarding the transcendental subject as capable of setting
rules freely and acting out of a will determined by those rules. Ultimately, this rests on a
metaphysical conception of subjectivity, which Kant retains. Rawls attempts to sidestep this problem by maintaining that autonomy does not follow merely from the fact that we
are rational, nor from the liberty of conscience guaranteed by the fact of pluralism, but instead is realized only in the presence of social institutions that educate us to our autonomy. Full Autonomy is, thus, only achieved in a well-ordered society as a result of social cooperation under fair terms. But this does not justify shedding metaphysical commitments altogether. For autonomy to be socially realized under Rawls’s view, we must be the kinds of beings who can be influenced and shaped by social institutions in order to achieve our potential as moral beings. Again, this raises the question of requiring a metaphysical subject.

Rawls, nonetheless, could respond to this objection by appealing to the rejection of hierarchies when it comes to resolving philosophical questions. In his 1975 essay titled “The Independence of Moral Theory,” Rawls had already argued against a hierarchical dependency of moral theory on metaphysics or epistemology. Rejecting the hierarchy between different philosophical fields entails a refusal to acknowledge the primacy of a theory of the subject over moral theory, and thus does not require putting forward a view

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42 Whether this is a correct reading of Kant or not is irrelevant, it merely illustrates the dependence of the conception of the person on the metaphysical subject.
43 Rawls refers to the fact of pluralism as the condition for rendering a well-ordered society “suitably realistic.” Given pluralism, the question is how to arrive at an “effective public conception of justice.” (PL 66)
44 This independence, rather than signifying the complete severing of philosophical fields from one another, is meant to specify that moral theory deals with problems of its own. Relations of mutual dependence between the different philosophical fields certainly do hold, but Rawls rejects views that consider such dependence to be hierarchical, methodologically privileging one set of questions over others. (IMT 300)
of subjectivity in order to render political theory possible. Rawls’s argument would, therefore, be an example of how political philosophy could help us develop a clearer understanding of subjectivity beginning from a political view.\(^{45}\) Rawls, then, would maintain that the implications with respect to subjectivity further corroborate his view rather than weaken it.

Furthermore, Rawls would argue against any metaphysical dependencies by referring to his freestanding political account of moral psychology. For Rawls, political persons are ready to suggest and bind themselves to specific principles due to their desire to be part of a well-ordered society. As Rawls notes, this account is political, neither philosophical nor psychological, as it is “drawn from the political conception of justice as fairness” and “express[es] a certain political conception of the person and an ideal of citizenship.” (PL 86-87) As I have argued in the previous section, the absence of a moral comprehensive doctrine serving as a basis raises the question of how we arrive at this notion of citizens. One way to justify this specific ideal of citizens along with the moral psychology Rawls assigns to them is through reversing the procedure, beginning from a well-ordered society in order to derive a concept of an ideal citizen. Consequently, from a political point of view, these are the conditions necessary for a well-ordered society to be realized.

But whether these commitments acquire a universal status or not in Rawls remains unclear. In the absence of a metaphysical ground, and given Rawls’s explicit claim that his model concepts only follow in a liberal democratic state, one can argue that Rawls’s conclusions end up being limited in scope, and do not even acquire universal validity.

\(^{45}\) In “The Independence of Moral Theory,” Rawls maintains that beginning with moral theory may help shed light on metaphysical conclusions. (IMT 287)
This is further emphasized with his political turn. In fact, in *The Law of Peoples*, Rawls considers these ideals to be consistent with his specific conception of reasonableness. The degree to which a community (and this applies to individuals as well) is reasonable determines the degree to which those ideals apply.\(^{46}\) Under this reading, Rawl’s argument requires first that one begin with the liberal democratic model. But as O’Neill argues, Rawls comes to assume the legitimacy of liberal democracy and does not argue for it.\(^{47}\) Rawls, thus, seems to dispose of universality in exchange for limiting his view within the confines of a political tradition. The problem, however, as Robert Taylor contends, is that this “turn[s] justification into a heteronomous enterprise, one that depends in a profoundly un-Kantian manner on historical contingency.”\(^{48}\)

Taylor raises another problem for the justice as fairness account, arguing that the limits Rawls imposes on his view entails a “pessimism about the width of reflective equilibrium,” given that our conclusions are determined by the traditions from which we begin.\(^{49}\) If the procedure we prescribe will heavily depend on adopting a liberal democratic view, it is not clear how Rawls can still maintain that wide reflective

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\(^{46}\) This is presented most clearly in the case of relatively reasonable peoples, or “decent peoples” as Rawls refers to such groups in *The Law of Peoples*. These groups’ limited reasonableness renders the ideal of a well-ordered society only partially attainable at the local level unless a more liberal viewpoint is endorsed. (LP 63-78)


\(^{49}\) Rawls contends that arriving at a reasonable resolution to the problem arising from a plurality of conflicting views requires engaging in the process of reflective equilibrium. Reflective equilibrium involves revising our “considered judgments” in order to arrive at a coherent set of moral judgments. But the “wide” reflective equilibrium that Rawls requires doesn’t only stop at one’s own judgments, but also requires developing a coherent view as a result of considering publicly shared moral conceptions as well. (IMT 289-90)
equilibrium, or arriving at a coherent view as a result of consulting the conceptions of others, is possible. As Taylor argues, “[s]trong path dependence in reflection turns all reflective equilibria into narrow ones [italics in original removed].”\(^{50}\)

It is not entirely clear, however, why this constitutes a problem for Rawls’s position. Rawls can simply reply by arguing that reflective equilibrium, especially wide reflective equilibrium, will only be properly effective when conditions of publicity are met. Moreover, these conditions are in fact satisfied in a liberal tradition. In the absence of publicity, one simply cannot negotiate one’s own views with those of others, which renders reflective equilibrium only possible in a narrow sense. In a liberal society, in contrast, the fact of reasonable pluralism guarantees that reflective equilibrium will not be merely narrow. Despite the existing overlapping consensus on basic matters, several reasonable comprehensive doctrines will still function as sources for a plurality of possible worldviews.

Arguing that liberalism is a precondition for the success of the procedures of justice as fairness provides Rawls with another way to respond to the question of universal validity. As I have suggested in the previous section, Rawls resorts to an actual overlapping consensus instead of moral learning in *Political Liberalism* since the problem of actually constituting subjects who are acting out of a sense of justice becomes less acute if we begin with individuals with reasonable comprehensive doctrines in a liberal democratic society. Consequently, Rawls appeals to the notion of an “overlapping consensus” to justify the ideals with which he begins. By making use of the overlapping consensus existing between the different publicly available reasonable comprehensive

\(^{50}\) Taylor, *Reconstructing Rawls*, 239.
doctrines, we can begin with the already agreed upon conception of a well-ordered society and accordingly procedurally construct the principles of justice. The notion of a well-ordered society invoked will be based on the overlap between different comprehensive doctrines. Justifying the procedure, under this argument, is not simply based on following an ideal liberal tradition, but on the actual existence of a consensus from which we can begin. There is certainly some incompleteness in Rawls’s view with respect to arguing for the universal validity of liberalism, but his view does not amount to a rejection of such universal validity.\footnote{The notion of consensus is certainly problematic. For instance, O’Neill raises a significant objection to the notion of consensus arguing that agreeing to terms on the condition that others agree to is neither necessary nor sufficient for reasonableness. In fact, as I will suggest in this section, reasonableness in Rawls will not be adequately grounded. Onora O’Neill, “Political Liberalism and Public Reason: A Critical Notice of John Rawls, Political Liberalism,” The Philosophical Review 106, no. 3 (1997): 415, https://doi.org/10.2307/2998399.} In fact, one could argue that the superiority of Rawls’s view over others would be established if we accept his claim that the fact of pluralism requires that we find basic points of agreement. While emphasizing the procedural nature of the political in attempting to resolve the practical problem of difference, Rawls could maintain his position offers a way to do that based on agreement on basic principles of justice. But Rawls never develops an explicit argument for the advantage of a position based on agreement over others, which renders his position incomplete. However, this does not necessarily indicate that his view is dependent on non-political notions or historically contingent traditions.

This reading, however, has one serious implication; liberal views that do not subscribe to Rawls’s account of a well-ordered society are rendered automatically unreasonable. To see how this follows, it is first imperative to look at one problem raised

\footnote{The notion of consensus is certainly problematic. For instance, O’Neill raises a significant objection to the notion of consensus arguing that agreeing to terms on the condition that others agree to is neither necessary nor sufficient for reasonableness. In fact, as I will suggest in this section, reasonableness in Rawls will not be adequately grounded. Onora O’Neill, “Political Liberalism and Public Reason: A Critical Notice of John Rawls, Political Liberalism,” The Philosophical Review 106, no. 3 (1997): 415, https://doi.org/10.2307/2998399.}
by Habermas, who argues that Rawls equivocates on the conditions that determine reasonableness. Whereas reasonableness is presupposed for any agreement, the relevant criteria for determining reasonable doctrines can either be through appealing to an already existing overlapping consensus, or it can be justified by the comprehensive doctrines of individuals. Clearly, Rawls would want to avoid committing to the latter claim given that it cannot provide an independent standard for excluding unreasonable comprehensive doctrine, and thus reasonableness will have to be justified on the basis of an existing overlapping consensus. The problem, however, is that the considered overlap must be only between individuals with reasonable comprehensive doctrines. The overlap itself, therefore, cannot be the basis to determine reasonableness, as it already presupposes a conception of the reasonable in order to determine whose goals and aims count to begin with.52

Of course, Rawls might appeal to the reading I have suggested, by arguing that reasonableness can be derived from the ideal of a well-ordered society presented and not from the existing overlap. Moreover, Rawls maintains that his notion of reasonableness is a straightforward one that no theory can do without. Two problems follow from this. As I have suggested earlier, Rawls can avoid the charge of having a heteronomous view that merely follows once we accept liberalism if he maintains that the idea of a well-ordered society arises out of the overlapping consensus and not as an ideal of liberalism. If that is the case, then reasonableness cannot be based on the notion of a well-ordered society given that an overlapping consensus already presupposes a criterion for reasonableness. Instead, reasonableness must already be determined to justify a specific notion of an ideal

52 Habermas, *The Inclusion of the Other*, 84–85.
Second, even if we derive the idea of the reasonable from the notion of a well-ordered society, this notion of reasonableness becomes compelling only if we accept Rawls’s view of an ideal society. If we link the idea of reasonableness with the notion of a well-ordered society analytically, it follows that anyone not committed to the same idea of a well-ordered society (which cannot be derived from an overlapping consensus), or to the view of stability as Rawls presents it, will have a different conception of reasonableness. Different conceptions of reasonableness will, thus, be excluded from Rawls’s reasonable comprehensive doctrines. Rawls introduces his political liberalism as a view that is able to incorporate under it many different reasonable views as candidates for determining principles of justice. But, at the meta-level, Rawls will either recognize his view as involving a local argument, or will continue to maintain universality while implicitly excluding any view that is not committed to the same conception of an ideal society.

The problem that arises with the justification of reasonableness leads to a second but similar problem with the moral psychology Rawls suggests. To account for stability in a well-ordered society, Rawls relies on overlapping consensus along with the moral psychology he develops. Yet, the question that follows is what moral psychology we should accept in the general view endorsed in *Political Liberalism*. Rawls considers that his specific political moral psychology is conducive for constructing the kind of society he identifies as well-ordered. This also involves rejecting accounts that do not quite fit

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53 Rawls specifies the conditions of stability in terms of an existing overlapping consensus and a view of moral psychology. The first condition renders the consensus actual, and the second responds to the question of whether growing up under liberal democratic institutions will produce a sense of justice in citizens. (PL 141)
with his preconceptions. In fact, Rawls explicitly presents his view as non-Humean,
which, on the one hand, excludes any moral psychology that follows a Humean approach,
and on the other, renders Rawls’s moral psychology the product of a comprehensive
doctrine and not strictly political as he maintains. (PL 84) Moreover, given that a moral
psychology cannot follow from Hume’s view, Rawls’s moral psychology cannot be itself
the product of an overlapping consensus.

The discussion of the conditions of stability leads us back to the problem pointed out
by Sen. Sen had argued that Rawls’s view is lacking when it comes to accounting for the
social realization of the ideal of justice. This ties directly to the notions of an overlapping
consensus along with the condition of publicity. In *Theory*, Rawls had argued that
publicity follows immediately from recognizing moral principles in terms of rational
choices that govern one’s conduct in an “ethical community” or “kingdom of ends.” (TJ
251-52) This provides him with an objective criterion for determining reasonableness,
albeit one that follows from a Kantian comprehensive doctrine. But in *Political
Liberalism*, Rawls specifies publicity as strictly political, where the goal of Political
Constructivism is identified in terms of offering an account of the “public basis of
justification… given the fact of reasonable pluralism.” (PL 100-01) Rawls argues that
citizens’ commitment to principles of justice, general beliefs about human nature and the
role of institutions, along with a complete justification for the principles of justice should
be public. (PL 67) Rawls recognizes that it would be too demanding to expect everyone
to be familiar with full justifications for the principles of justice; however, he contends
that they must still be publicly available. Significantly, full publicity constitutes a
precondition for freedom as only upon being familiar with justifications can citizens in
fact act *out of* principles of justice. Full publicity allows for adjudicating between conflicting conceptions of freedom and equality, and since principles of justice provide the bases for institutions that shape individuals and thus have long-term effects, publicity allows for scrutiny of legal practices when necessary. As such, “free and equal persons are in a position to know and accept the background social influences that shape their conception of themselves as persons, as well as their character and conception of their good.” (KCMT 326)

The notion of publicity is, therefore, linked to the kind of justification that is given in support of one’s commitments. Rather than relying on comprehensive doctrines, publicity requires that political reasons are provided for views that are endorsed publicly. This condition allows Rawls to assign a significant social role to his political account, one that he considers to be lacking in Hobbes. Rawls had argued that Hobbes assigns to individuals in the state of nature essential traits that make war inevitable. Under Rawls’s reading, Hobbes minimizes the role of institutions in shaping individuals since these traits, along with the threat of war, are simply outweighed by fear of the sovereign with the transition to society. By relying on the condition of publicity, however, Rawls can account for the social role of political institutions. First, justifying the rights of citizens institutionally will directly appeal to the political publicly available conceptions of citizens. Second, through recognizing their rights as the result of their moral powers, citizens will be “educated” to understand themselves as autonomous individuals and develop the desire to be that kind of person. Rawls considers that, in a liberal democratic society, such desires would have already been at least partially nurtured, which justifies the existence of an overlapping consensus. (PL 85-86) Importantly, then, citizens can
recognize themselves as autonomous legislators only when this role of institutions has been properly fulfilled. (KCMT 340)

A well-ordered society would, therefore, be founded on principles of justice which everyone accepts, and which have been constituted out of the reasonable beliefs of free and equal citizens. Such a society would also be stable, for moral persons that act out of a sense of justice, and where social institutions perpetuate such principles of justice, would “generate their own support” as long as these principles are “publicly realized.” (IMT 294)

The influence allotted to institutions in shaping the overlapping consensus leads to a third problem in Rawls’s position. Rawls recognizes that the influence of political institutions is “pervasive” and “long-term.” (PL 68) These institutions have the effect of instilling the right kind of motivations in citizens in order to act out a sense of justice. Though, in a liberal democratic society, Rawls claims that such motivations would have already been nurtured, he still provides a historical account of how such an overlapping consensus with regards to the principles of justice may arise. Taking the example of the development of consensus in the United States, Rawls shows how constitutional consensus eventually develops into a consensus over the actual principles of justice. (PL 158-60) A precondition for this overlapping consensus, thus, is the role institutions play in order to bring into being citizens who want to take part in a liberal democratic ideal.

This points to another equivocation in Rawls’s view concerning the legitimacy of the principles of justice he provides. Rawls maintains that the overlap is present among different comprehensive doctrines, and the role institutions play concerns changing the kind of justification given from one relying on comprehensive doctrines to political. But
Rawls simultaneously recognizes that the content of the overlap should be instilled by institutions. This does not simply apply to the kind of justification employed, i.e. political as opposed to comprehensive, but also to the principles themselves. For instance, Rawls shows how “constitutional principles such as liberty of conscience were adopted only with great reluctance as part of a modus vivendi,” before developing into an overlapping consensus. (PL lviii ) Yet, the transition from constitutional consensus to an actual overlapping consensus occurs as a result of propagating these principles through political institutions. If the political view Rawls espouses is primarily based on an actual overlapping consensus, this consensus is primarily due to the role institutions play in shaping individuals to accept such principles and ideals.

Rawls could again argue that the justification for these ideals follows from the original position given free and equal citizens and a specific conception of a well-ordered society. But as I have argued, either the notion of a well-ordered society is completely ungrounded and exclusionary of other views of an ideal society, or it is based on the actual overlapping consensus, since it is presupposed for the original position. If it is the latter, then the justification for the idea of an ideal society, ideal citizens, and the principles follows from an overlapping consensus that has been instilled institutionally. This problem is rendered more significant given that Rawls maintains that the condition of publicity is supposed to render citizens wary of the effects of political institutions. But this undermines Rawls’s entire account as the specific normative ideals that publicity is designed to protect have been instilled by institutions to begin with. Rawls’s argument for the specific procedure he specifies is, thus, imbued with a circularity that threatens not only the normativity of his view, but also the very basic notion of negative freedom to
which he is committed.

Conclusions

We can now return to the three problems Rawls identifies in his reading of Hobbes. To begin with, I have argued that though Rawls does introduce reasonableness as independent of instrumental reason, the criteria for distinguishing between the reasonable and the unreasonable do not seem to be adequately specified. Whereas Kantian constructivism can refer to an independent nonpolitical moral basis in order to determine what is reasonable and what is not, this advantage is lost by attempting to offer a freestanding political justification for reasonableness. Consequently, Rawls will have to appeal to some nonpolitical grounding in order to justify his conception of reasonableness. Moreover, Rawls specifies two main requirements for stability, an overlapping consensus and a political moral psychology. As I have argued, Rawls’s moral psychology cannot be understood as being strictly political and follows from commitments that cannot be justified by simply appealing to a well-ordered society. Attempting to limit his account to the political sphere results in circularity. Alternatively, Rawls would have to exclude from the outset views that do not share with him the same conception of an ideal society and rely on a different moral psychology.

The notion of an overlapping consensus leads to the final problem, namely the social role of the political that Rawls finds lacking in Hobbes. Rawls, however, appears to be oblivious to the role he assigns to institutions in instilling liberal ideals and thus constituting an overlapping consensus. The problem of the role of institutions motivates referring to the historical role of institutions in manufacturing ideals. The next chapter will, thus, turn to Foucault, beginning with the problems he raises against Hobbes in
order to develop his view of power relations. Foucault rejects a contractarian view that
relies on juridical power and argues for a positive understanding of force relations.
Rendering his argument clearer will depend on determining a material basis for
Foucault’s conception of power relations. Finally, I argue that this makes his view
compatible with the contractarianism Hobbes presents.
Chapter Two

Foucault’s Non-Contractarian Power

In the previous chapter, I have evaluated Rawls’s view in terms of his success in accounting for the problems he argues exist in Hobbesian politics, namely arriving at stability for the right reasons, accounting for the reasonableness of moral persons, and attributing a social role for politics. I have suggested that though his initial Kantian view manages to circumvent these problems, the freestanding account he develops lacks grounding and justification and falls into circularity. Rawls, therefore, can only justify normative content by appealing to an overlapping consensus produced by institutions that instill these values in citizens in an ideal liberal society. The focus on institutional inculcation as a justification for a political view, however, fails to be normatively compelling. Moreover, given the significant institutional role in shaping citizens, it is requisite to consider a critique of the social function of constituting citizens with specific ideals. Consequently, this chapter turns to Foucault in order to offer such a reading.

Whereas Rawls rejected appealing to non-political justifications, Foucault attempts to ground politics in the material activity of power relations. Yet, the theoretical tools he uses also emerge as a response to the view he ascribes to Hobbes. Foucault repeatedly emphasizes the opposition between his view of power relations and the understanding of power in terms of contract throughout his genealogical work. By reducing contractarianism to juridical power, Foucault appears to identify the problem of sovereignty with that of consent along with an outdated conception of power that

54 As I will show in the upcoming discussion, the contrast appears most clearly in *Discipline and Punish*, *The Will to Knowledge*, and *Society Must be Defended*. 

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functions from above. Yet, though there has been some discussion of how the conception of force relations overturns juridical power, little attention has been given to Foucault’s references to social contract theory, which I will turn to in the next section. This chapter will examine the opposition Foucault draws between his view and Hobbesian social contract theory. Since this opposition develops during Foucault’s genealogical turn, my focus will primarily be on his mid-seventies works. My aim is to, first, expose the problematic identification of contract, law, and sovereignty we find in Foucault through shedding light on the disagreement in the literature. I argue that the most straightforward way to understand Foucault’s rejection of contractarianism is by exploring the reversals he introduces, primarily concerning the emergence of political power and the development of subjectivity. I show afterwards that Foucault’s view of force relations rests on their material activity. Ascribing material underpinnings to the activity of power requires that we reconsider the opposition Foucault introduces between his view and that of Hobbes. Consequently, I argue that the activity of power in Foucault’s account can be understood as complementary to the one Hobbes develops. This will ultimately depend on offering an interpretation of Hobbes that focuses on the material basis for his political view.

**Against Juridical Power**

In the 1975-1976 lecture series *Society Must Be Defended*, Foucault institutes a reversal of the account of power that he takes to have been dominant in Early Modern philosophy and is still active in political thought. Foucault contends that the theory of sovereignty he opposes entails three main elements. First, it begins with a conception of the individual as possessing certain capacities and capabilities. This initial subject is then
transformed into a political subject, one that is subjected to political power, upon instituting the state. Second, a theory of sovereignty aims at deriving a unified account of power, embodied in the sovereign or state, from a non-political conception of power as a capacity. Finally, these subjects also retain natural rights, which justify the constitution of the law that imparts legitimacy on the state. A theory of sovereignty thus relies on a more “basic legitimacy” that grounds the authority of the state. (SMD 43-44)

For Foucault, this juridical understanding conceives of power as a right that can be possessed, transferred, and exchanged. It is an understanding of power that follows the juridical model of contract, where transgression manifested in terms of the violation of agreement results in oppression. (SMD 13, 17) In *The Will to Knowledge*, Foucault maintains that this representation of power remains within the confines of a monarchical view, where power is always exercised through the law. (WK 88)

Foucault, in contrast, attempts to provide an account of political power that releases political analysis from such assumptions. Instead, Foucault aims at accounting for underlying tactics and battlefields that provide a fuller conception of politics. (SMD 45, 47, 50-51, 79) Consequently, a proper analysis of political power will shed light on how subjects are constituted as a product of power relations. Second, Foucault attempts to step away from an analysis that focuses on power as possessed and stemming from above, or from a unified state. (SMD 44, 46) In *Discipline and Punish*, Foucault had already contrasted his view of power to that of sovereignty. Foucault argued that understanding disciplinary mechanisms requires altering the account of power we hold, where power relations should be understood on the model of battle. Power, thus, is not to be reduced to a relation between the state and already-constituted subjects, but rather fabricates
individuals, infiltrates the bodies on which it is exercised, and is finally transmitted through them. (DP 26) Accordingly, Foucault introduces another shift away from the theory of sovereignty, one that does not provide a view of power as unified and possessed by the state. Instead, power relations are to be understood in their capillary functioning and specificity. (DP 45)

Nonetheless, several problems emerge with Foucault’s rejection of the juridical form of power. First, Foucault equivocates on his references to social contract theories, at times reducing them to a uniform and specific understanding of power and at other times arguing that different contractarian theories have fulfilled different functions in political history. For instance, in his February 1 lecture from the 1977-1978 lectures *Security, Territory, Population*, which was published later as “Governmentality,” Foucault argues that we find in both Hobbes and Rousseau attempts to reconcile sovereignty with the emerging art of government. (STP 139, 142) Yet, in his 1978-1979 lectures, *The Birth of Biopolitics*, Foucault locates Hobbes in the intersection between sovereignty and reason of the state while limiting the social bond to the juridical sphere and maintaining a theory of the state. Under Foucault’s reading, however, Rousseau appears to be working with a different problem, that of identifying the limits of sovereignty in relation to the art of government. (BB 39, 91, 308) Whereas Foucault maintains that both belong to the juridical model, the historical role they play varies significantly. Furthermore, several of the arguments Foucault introduces concerning the function of war under the juridical model are specific to Hobbes. This emphasis on Hobbes in rejecting the juridical conception of power renders an engagement with Hobbes significant to fully understand Foucault’s reversal. The distance Foucault draws between his work and that of Hobbes
raises the question of whether we can derive radically different conceptions of politics from the two views. As I shall argue, Foucault is mistaken in highlighting the rift given the commitment we find in both to material politics. For this purpose, this chapter will be limited to discussing Foucault’s work in relation to his reading of Hobbes’s version of the contract. Whereas Rawls attempts to introduce a freestanding politics, both Foucault and Hobbes offer a material basis for political analysis. I shall argue in later chapters that this material basis renders a political analysis more effective and makes critique possible.

Though Foucault uses the notions of jurdicality, law, contract, and sovereignty as if they can be ascribed to a single model of power, their unity is far less clear than Foucault makes it appear. In response, Hunt and Wickham argue that law in Foucault’s work is displaced and superseded with disciplinary power and governmental techniques which give rise to more efficient discourses. Foucault’s “expulsion of law” follows from attributing to law a uniform function in terms of prohibition.55 Under this reading, Foucault argues that an accurate analysis of power should be entirely concerned with disciplinary practices that replace the negative function of law with the productive understanding of power relations. Hunt and Wickham take this conclusion to be the product of a misconception of the heterogeneous element we find in legal theory that Foucault appears to overlook.56

Tadros, on the other hand, argues against views that reduce law to juridical power. The contrast between juridical and disciplinary power identified in Foucault’s work should open up the space for reconsidering the function of law in society. Consequently, 

56 Hunt and Wickham, 69.
law operates between the disciplinary and the juridical. Whereas juridical power takes
law to merely function through prohibition, law instead is exercised on the lives of
individuals and results in the construction of subjects. Therefore, Foucault replaces
the juridical understanding of power relations with disciplinary techniques and
governance of populations, where both come to establish power over the lives of
individuals, or biopower. Therefore, Foucault does not offer a theory of
law, but rather provides a historical analysis for the different modes of law. For Tadros,
Foucault uses the term “juridical” with reference to power in relation to two different
phenomena. First, it is with reference to the “network” of power relations operating in the
Middle Ages, i.e. pre-modern forms of power. Second, it is the way power presents itself
even today. Consequently, Tadros argues that what Foucault primarily intends to reverse
is the way that law is presented or “coded”, namely juridically. This view is further
supported by Biebricher, who shows that there are textual difficulties with claiming that
the function of law is reducible to that of prohibition in Foucault’s work. As Biebricher
argues, Foucault often invokes an understanding of law that is not merely prohibitive, but
rather functions contractually and involves an element of reciprocity.

The contentious element in the relation between the juridical conception of power and
the function of law is accompanied by disagreement in the critical literature over the

57 Chapter four will return to identify this function of law in Hobbes.
58 Victor Tadros, “Between Governance and Discipline: The Law and Michel Foucault,”
59 Tadros, 79.
60 Tadros, 82.
61 Thomas Biebricher, “Foucault and the Politics of Rights,” Journal of Political Power
relation between juridical power and the political power modeled on war: the latter idea (the preeminence of the politics-war dyad) is the core thesis of the 75-76 lecture course, which also serve as the first formal exploration of the former notion (disciplinary as succeeding juridical models for power) beyond the pages of *Discipline and Punish*. The question ceaselessly debated in the literature is whether Foucault is arguing for a complete dismissal of juridical power or simply for taking it to offer a too-limited perspective of the political dynamic. For instance, Mariana Valverde places historical analysis in opposition to the universal juridical thought we find in Hobbes and social contract theory in general. Consequently, Valverde argues that using war as a model for historical analysis is on a completely different plane from juridical power. The two approaches offer two different perspectives and both are of value rather than being mutually exclusive.\(^62\) Colin Gordon puts forward a different interpretation and suggests that theories that seek to derive political legitimacy can only serve the function of political force.\(^63\) The normativity entailed in each of these accounts precludes deriving objective conclusions on the actual functioning of power and only has value in supporting or harming historical forces.

In contrast, Lawrence Hass argues that juridical power constitutes only a “subset” of Foucault’s model of power. Foucault’s account, therefore, has an explanatory advantage by virtue of being able to address the functioning of discipline and biopower. Just as

power relations can be productive, they can also be repressive, and it is only the latter that juridical power stresses.\(^{64}\)

Finally, several authors have argued that Foucault abandons his understanding of power on the model of war shortly after he introduces it. Andrew Neal, for instance, offers an entirely different approach to *Society Must be Defended* and argues that while Foucault initially explores modeling politics on war, it would be mistaken to understand that as an alternative to juridical power. Neal argues that the historical reading Foucault offers shows how the discourse of politics as war was appropriated and incorporated into the nation-state politics. Thus, for Neal, Foucault does not maintain the politics-as-war hypothesis and has already rejected it in *Society Must be Defended* itself.\(^{65}\) In addition, Johanna Oksala maintains that Foucault exposes how social contract theories merely concealed the violent origins of the state. Oksala takes Foucault to have abandoned the understanding of politics on war, while maintaining a strategic and agonistic view of political relations.\(^{66}\) Similarly, Thomas Lemke contends that merely reversing the juridical understanding of power keeps Foucault within its confines. Therefore, governmentality comes to replace the model of war as a way to cut off the king’s head in

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\(^{65}\) Andrew W. Neal, “Cutting Off the King’s Head: Foucault’s Society Must Be Defended and the Problem of Sovereignty,” *Alternatives: Global, Local, Political* 29, no. 4 (2004): 378.

political analysis through understanding it primarily as conduct.\textsuperscript{67}

One could see why these readings of Foucault may cast doubt on the coherence of his view, and legitimately raise the question of whether we can maintain Foucault’s position to be opposed to that of contractarianism. Foucault himself is unclear on the matter and appears to waiver as to whether his position entails a rejection of juridical thought or is only a perspective among many. Foucault’s arguments in \textit{The History of Sexuality Vol. I} for “cut[ting] off the head of the king” given the juridical view’s inability to “code” power appears to be an instance of his endorsement of a complete rejection of the juridical form as an outmoded form of power. Alternatively, in “The Subject and Power,” Foucault maintains that power as a “capacity,” which he often attributes to the juridical form, continues to operate alongside other forms and takes part in the constitution of disciplinary “blocks.” (WK 89; SP 338) In order to derive the implications of Foucault’s understanding of power in relation to Hobbes’s contractarianism, I will examine in detail Foucault’s argument in the next section before returning to argue against the strict opposition maintained between these two views.

\textbf{Non-contractarian Power}

Foucault’s rejection of the contractarian view of power appears as early as \textit{Discipline and Punish} while accounting for the mechanisms that produce docile bodies. Foucault develops a micro-physics of power that is “concerned with the ‘body politic,’ as a set of material elements and techniques.” (DP 28) Disciplinary power mechanisms, therefore, act on the body in order to fabricate the “modern soul,” a subjectivity that Foucault insists

\textsuperscript{67} Thomas Lemke, \textit{Foucault, Governmentality, and Critique} (New York: Routledge, 2012), 11–12.
came to “imprison the body.” (DP 28-29) For Foucault, this means power relations must be anonymous, for in contrast to juridical power linked to the exercised power of the sovereign, disciplinary power mechanisms objectify and emphasize the bodies on which they are applied.

We thus find two main arguments against the social contract model pertaining to the operation of power relations. On the one hand, power can neither be possessed by individuals, nor by the state as an institution, and is rather exercised. In contrast, contractarian theories focus on the exercise of power by the state, or by a sovereign, resulting from the consent of individuals.\(^68\) On the other hand, to maintain that power fabricates subjects is to also contend that power cannot be understood as negative, for the body is gradually molded through being invested by power relations. Through locating the exercise of power in the operation of law, the social contract model emphasizes the prohibitory function of law. Though power may initially derive from a more positive conception of right, as in Hobbes, it still culminates in the constitution of the state that sets limits to such positive capacities. For Foucault, however, the activity of power relations is not limited to prohibition, as they constitute the subject while being transmitted through the body of the individual. In other words, Foucault endorses a positive view of power as productive, a theme he retains as his account of power relations develops.

Therefore, Foucault does not intend to begin with physical non-political powers that come to found a unified political structure. Instead, he introduces a methodological shift

\(^{68}\) There’s a question as to whether this applies to the views advanced by Rousseau and Spinoza. This discussion, however, is beyond the scope of this chapter.
away from the theory of sovereignty by arguing that power relations must be understood in their specificity. An analysis of power relations requires recognizing them as multiple, heterogeneous, and agonistic. Such an “effective” analysis can only result from conceiving of power relations from the standpoint of local tactics that come to contribute in “global strategies” instead of reducing them to an overarching, unified, and coherent conception. (SMD 45)

Foucault’s departure from a contractarian juridical model of power becomes clearer if we consider the question of rights. Foucault maintains that contractarian views begin with the assumption of basic rights that provide the source of legitimacy for juridical power.69 Hobbes, for instance, begins with a right to everything that persons have under the natural condition in the absence of natural laws that set limits. Establishing a unified arbitrator can only follow from transferring such rights. (L 119) But to understand relations of power on the micro-physical model suggests that the disciplinary mode of power cannot be reduced to the language of rights and laws. Disciplinary power, instead, precedes subjects and cannot be reduced to a capacity of subjects that serves as a basis for legitimacy.70 For Foucault, the juridical-philosophical contractarian model is thus blind to the disciplinary mechanisms that act on bodies to produce obedience, and instead limits

69 There is a sense in which this presupposition also persists in some contemporary contractarian accounts. For instance, Rawls locates this basic legitimacy in the conception of a reasonable and rational moral person under conditions of freedom and equality, where both moral powers are preconditions for inclusion in the contract. (PL 19) 70 This may not be an entirely fair characterization of Hobbes’s view given the understanding of natural persons in terms of conative passionate individuals in Hobbes, but whether this is an accurate characterization is not at issue here. Instead, my argument is, even if we accept Foucault’s reading of Hobbes, drawing a strict opposition between the two conceptions of power is unwarranted. I will return to a more complete discussion of Hobbes in the next chapter.
the question of power to that of legitimacy. Rather than conceiving of power relations that act on the social body as following from agreement, Foucault suggests we consider processes that shape subjects, ones for which a contractarian approach cannot adequately account. (DP 169) Consequently, whether contract establishes a disciplinary relation or not is irrelevant, for disciplinary mechanisms are not bound by contractual prohibitions. As Foucault argues, discipline functions as a counter-law, for it produces asymmetries that preclude reciprocal social relations. (DP 222-23)

Recognizing that the subject is produced by mechanisms requires that we institute another methodological reversal that does not begin with legitimate natural rights possessed by individuals. As Foucault argues in Society Must be Defended, rather than tracing the origins of relations of power, Foucault’s account requires that we “identify the technical instruments that guarantee that they function.” (DP 46) Consequently, the strategic understanding of power introduces a turn towards an analysis of techniques, instead of attempting to discover the origins of the state in contract and consent. Such an analysis would put forward a conception of political power based on the model of war, a basic war that continuously and permanently permeates the state and all its apparatuses. Thus, Foucault institutes a reversal of Clausewitz principle, a reversal that he locates in the history of political struggle. Rather than viewing war to be an extension of politics by

71 The next chapter will argue against this claim by showing that Hobbes’s politics is grounded in a material view.
72 This blurs a distinction we find in Hobbes between natural persons we find in the state of nature and citizens who only come to exist upon the institution of the commonwealth. Yet, we still find in Hobbes a conception of persons endowed with natural rights that constitute the basis for transitioning towards the state in the state of nature.
73 As I maintain in the next chapter, Hobbes’s view can be understood as countering narratives that appeal to origins rather than conferring legitimacy on the origin of the state.
other means, politics is to be understood as war that is conducted by other means. (DP 48) The critique of appealing to origins is one that Foucault had already emphasized in “Nietzsche, Genealogy, History,” yet these lectures come to complete the genealogical turn through deriving political implications from eliminating the question of origins.

Accordingly, Foucault can argue for the advantage of his view over that of contract through invoking an empirical argument. Foucault manages to account for disciplinary mechanisms, ones that cannot be explained through the social contract, and thus shows that power relations cannot be simply reduced to a juridical understanding. This argument, however, does not clearly establish Foucault’s position as a superior alternative to the juridical model, as it can be recognized as merely complementary. In fact, the conflict between the two conceptions of power can be incorporated into Foucault’s view, especially with his insistence that we need not offer a universal understanding of the operation of power relations.74

**Foucault and Hobbes**

If opposing a contractarian view leads to a micro-physics of power in *Discipline and Punish*, Foucault fleshes out the theoretical elements of his account further in his 1975-1976 lectures *Society Must be Defended*. Foucault retains his commitment to an understanding of power as productive of subjectivity and as exercised as opposed to a

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74 That Foucault’s view provides a more powerful explanatory framework is supported by a statement he makes in “Useless to Revolt?” where Foucault maintains that understanding rights in terms of risking one’s life and disobeying the ruler is an understanding “more solid and closer to experience than natural rights”. Michel Foucault, “Useless to Revolt?,” in *Power: Essential Works of Foucault, 1954-1984, Volume III*, ed. James D. Faubion, trans. Robert Hurley (New York: The New Press, 2001), 449. Foucault thus endorses a realist approach that accounts for why and how revolt occurs, whereas the juridical line of argument remains too ideal.
possessed capacity. Yet, one significant feature of power relations that is developed in these lectures is that of inequality. Foucault explicitly invokes Hobbes, characterized as a proponent of juridical power, and argues that the model of *Leviathan* must be abandoned. As he did in *Discipline and Punish*, Foucault maintains that power must not be understood as limited to the institutions of the state, but must be recognized as acting on the very subjects that are taken by the juridical model to be preconditions for the constitution of the state. (SMD 34)

Consequently, the anti-Hobbesian position materializes more clearly through the reading Foucault puts forward of Hobbes’s state of nature. In fact, in *Society Must be Defended*, Foucault’s claims depend on arguing that the discourse of war he attempts to uncover cannot be reduced to that of Hobbes. For Hobbes, it is the condition of war we find in the state of nature that justifies transferring natural rights belonging to natural persons in order to bring into being the politically unified commonwealth. (L 116) But whereas Hobbes appears to put forward an account that takes war to be “both the basis of power relations and the principle that explains them,” Foucault argues that Hobbes is committed to a merely juridical view of power. (SMD 89; L 85-86, 128-29) Moreover, Hobbes appears to argue for an account of the origin of the state based on a conception of the natural human being who possesses power as a capacity from which we derive unitary political power. (L 116) Consequently, Foucault maintains that an analysis of power cannot be limited to the model of contract from which a state is constituted. (SMD 34)

Moreover, in these lectures, Foucault introduces a further argument against Hobbes pertaining to the condition of war that characterizes the state of nature. Foucault traces the development of the notion of politics on the model of war to the appearance of a race
war discourse near the end of the sixteenth century. Under this reading, the state is “nothing more than the way that the war between the two groups in question continues to be waged in apparently peaceful forms.” (SMD 88) This raises an interesting question in relation to Hobbesian contractarianism, namely that of the transition towards the state as a result of a war that threatens all our lives. Yet, this war for Hobbes “consisteth not in actual fighting but in the known disposition thereto during all the time there is no assurance to the contrary.” (L 113)

For Foucault, however, the fundamental mistake we find in Hobbes’s work concerns the state of war he designates along with its preconditions. Foucault argues that by focusing on such a general conception of war that follows from equality, Hobbes comes to exclude the discourse of war that follows from unequal relations rather than develop legitimacy out of it. As Foucault states, for Hobbes, the war that leads to the birth of the state is the “most general of all wars, and it goes on at all times and in every dimension.” (SMD 89) This war persists after the constitution of the state, as we can see in the two types of sovereignty Hobbes provides, that of sovereignty by institution and sovereignty by acquisition following conquest. In both cases, the state is an outcome of a war that is found under the conditions of physical and mental equality of which we are conscious. But for Foucault, what marks the Hobbesian view of the state of nature is the absence of actual battles. Instead, equality ensures that all we need in order to arrive at the covenant is a threat of war, coupled with “calculated presentations” and tactics designed to intimidate and show that every person is willing to engage in battle. Such a threat, therefore, offers the sufficient conditions to transition towards the state. What brings the state into existence, according to Foucault’s reading of Hobbes, is not real war, but
merely the fear of death. As Foucault notes,

There are no battles in Hobbes’s primitive war, there is no blood and there are no 
corpses. There are presentations, manifestations, signs, emphatic expressions, wiles, 
and deceitful expressions…we are in a theater where presentations are exchanged, in 
a relationship of fear…we are not really involved in war. (SMD 92)

Foucault argues that it is always fear of death that leads to instituting the sovereign as 
representative of the social body, and never war itself. Accordingly, under the model of 
contract, war becomes irrelevant for the constitution of sovereignty. Hobbes, therefore, is 
not to be viewed as establishing the relation between war and political power, but rather 
as excluding war and battle from political analysis. Consequently, an alternative 
analysis of power relations must function historically to shed light on actual historical 
battles rather than hypothetical ones. It must begin with identifying instances of 
*inequality* that are the product of war and violence as opposed to locating a permanent 
“state of war” in equality. (SMD 156)

The view introduced in *Society Must be Defended* is further supported with an 
“analytics of power” Foucault introduces in *The Will to Knowledge*, the first volume of 
*The History of Sexuality* which was published the year Foucault concluded his 1975-1976 
lectures. This analytics of power recognizes that resistance is immanent to any power 
relation. Whereas Foucault’s engagement with Hobbes in this work is limited to claiming 
that the power over life and death is not a matter of the transfer of natural right, it is clear

75 In *Society Must be Defended*, Foucault also argues that Hobbes attempted to occlude a 
historico-political discourse that uncovers the problem of the Norman conquest, while 
replacing it with an abstract philosophico-juridical discourse that isolates the question of 
legitimacy from actual battles. This argument, however, is presented merely to support 
the opposition he introduces between the historical and the juridical. (SMD 98-99)
that he retains several arguments he had already presented concerning inequality and war. (WK 135) The contrast with Hobbes appears most clearly in Foucault’s argument that inequality serves as a necessary condition for power relations. Inequality, moreover, is due to the inherent instability of force relations, a stipulation that serves as an explanatory grid for social interactions. The instability of forces leads to the production of new forces, which in turn generates power everywhere.

Yet, whereas power relations are to be understood in terms of war in Society Must be Defended, Foucault recognizes that war is only one form a power relation can be discursively “coded” as, while politics is another. Instead of reducing politics to agonistic relations of war, Foucault thus maintains that both warlike relations and political relations are reducible to forces. Rather than transitioning from warlike forces to juridical power, Foucault attempts to identify a unified grid for both modes of power, while arguing that the distinction between the two is merely a discursive one. Therefore, Foucault maintains that “it is one of the essential traits of Western societies that the force relationships which for a long time had found expression in war…gradually became invested in the order of political power.” (WK 102) We find, consequently, a claim to a strictly discursive distinction between warlike relations and political ones, while linking both to an underlying dynamic explained through the movements of forces. Accordingly, power is not to be understood today simply by means of law. Instead, what must replace the violence of war is a strategic conception of politics.

76 The inherent inequality involved in power relations is repeated in “The Subject and Power”. There are interpretational difficulties with “The Subject and Power,” especially with Foucault moving to the language of action rather than bodies partly in response to Habermasian criticism, but this won’t be the focus of this chapter. (SP 338)
Nonetheless, Foucault is also committed to a degree of nominalism, as he recognizes that power as a general term is nothing but a “name that one attributes to a complex strategic situation in a particular society.”\textsuperscript{77} (WK 92) In other words, Power does not exist, what exists are particular force relations strategically directed. Power as the multiplicity of force relations is immanent in the domain they constitute, and this constitution is nothing but a particular organization of forces. Power does not become a unity that is materialized in a sovereign, but is rather present everywhere due to its self-reproductive activity understood in terms of the instability of force relations that leads to the production of new forces in turn. To be a nominalist about power, thus, is to claim there is no Power but only particular strategic manifestations. Yet, the difference between power as political and power as warlike is a difference in presentation. Beneath strategies, we must posit force relations that determine effectiveness and explain the shifting balance of power. Foucault’s “analytics of power” recognizes that strategies are immanent in force relations, which in turn could constitute and partake in an overall strategy. (WK 99) This is why Foucault contends that instead of power, what we find is the “moving substrate of force relations” that inherently determines strategies, and by virtue of this complex network of force relations a domain is introduced. (WK 93) This understanding of power relations becomes thornier with a third shift Foucault introduces, that of the constitution of subjectivity. The next section will therefore attempt to introduce a coherent view of the resistance of bodies in relation to the exercise of power.

Subjects and Material Bodies

If the rejection of a unified view of power leads to a disjointed understanding of force

\textsuperscript{77} I will return to discuss Foucault’s nominalism in more detail in chapter four.
relations that come to constitute subjects, the obvious question that follows for Foucault is that of the object of the exercise of power. In both, *Discipline and Punish* and *The Will to Knowledge*, Foucault repeatedly maintains that power invests material bodies, subjugating them through rigorous training and through transforming them into objects of knowledge. (DP 152, 217; WK 152) This assertion requires that we rethink our understanding of the subject. Whereas in social contract theory, the subject is primary and plays a foundational role in the forming the state, Foucault reverses the relation between subject and state, where subjects, being produced by power relations, cannot “possess” power and can only serve as vehicles of power. Consequently, Foucault specifies another reversal in relation to the contractarian project, and rather than identifying the conditions that lead subjects to produce a state, he attempts to identify material processes, some of which are state-related, that produce subjects. These subjects, for Foucault, must be understood as “peripheral bodies” that are subjectified through power relations. They are bodies that the model of contract is unable to incorporate. (SMD 28-29) Consequently, whereas a theory of sovereignty begins with a conception of the individual that possesses capacities and is then transformed into a political subject, Foucault intends to put forward an analysis that accounts for the constitution of subjects at the “limits” as effects of power relations.

Nonetheless, whether we find a coherent account of the material body in Foucault’s different works remains a disputed matter. In fact, as several commentators have already argued, Foucault’s presentation of the docile and passive material body in *Discipline and Punish* does not seem to fit well with his later characterizations that find in the body a
capacity for free action.\textsuperscript{78}

As Foucault maintains, “discipline produces subjected and practiced bodies, ‘docile’ bodies,” in order to render them both docile and capable simultaneously. (DP 138) The example of handwriting is useful to examine here. As Foucault shows, “good handwriting … presupposes a gymnastics – a whole routine whose rigorous code invests the body in its entirety.” (DP 152) By quoting La Salle, Foucault shows how students are expected to hold their bodies erect, somewhat turned and free on the left side, slightly inclined, so that, with the elbow placed on the table, the chin can be rested upon the hand, unless this were to interfere with the view; the left leg must be somewhat more forward under the table than the right. A distance of two fingers must be left between the body and the table; for not only does one write with more alertness, but nothing is more harmful to the health than to acquire the habit of pressing one’s stomach against the table; the part of the left arm from the elbow to the hand must be placed on the table. (DP 152)

This meticulous partitioning of the body while assigning movement to every part shows how bodies are disciplined in order to render them efficient. Passivity, therefore, results from emphasizing specific forces in the body and training it to perform specific motions and not others. Ultimately, as Foucault emphasizes, the body becomes imprisoned by the subject constituted out of these practices.

This understanding of the body as possibly docile, however, raises problems for

Foucault’s view. Through attempting to uncover conditions that make modern subjects possible and dispelling the notion of the individual as an atom that constitutes the state as a result of an agreement, Foucault appears to reduce subjects to effects of power relations that seem to lack a capacity for overturning the activity of those relations. But even if we set the question of freedom aside, this characterization still closes up the possibility of resistance that Foucault insists on attributing to the body beginning with *Society Must be Defended*. (SMD 280)

To examine this problem further, it may be useful to look at Foucault’s clearest discussion of materiality in “Nietzsche, Genealogy, History.” In this essay, Foucault argues that genealogy is concerned with descent, as a material search that identifies “inscriptions” on the body, which in turn is understood as the “surface of the inscription of events”. This historical inscription on the body gives rise to a “chimera of a substantial unity,” but it must be recognized as dissociated and multiple. (NGH 375) The body is an aggregate of historical marks left behind by inconsistent regimes that have shaped it, endowed it with resistances, and constituted it as a network of forces. (NGH 387)

Yet, Foucault only becomes clear on how this “inscription” occurs in *Discipline and Punish*, where the body is identified as the target of disciplinary mechanisms. Interestingly, discipline takes the body as its target to achieve incorporeal effects. Whereas sovereign power acts straightforwardly on the body for the purpose of inflicting pain, the disciplined body is no longer the target, but only an intermediary. Power is exercised on the body, thus producing effects in the subject. (DP 11) The shift in the activity of power is primarily in objective, which leads to maximizing the efficiency of punishment. It is now a matter of “defining” the individual, rendering her capable of
functioning within the confines of the law. Disciplinary mechanisms, thus, function through two stages. First, the body is rendered docile through a meticulous supervision of activity, precise imperatives that specify every movement, and strict spatial divisions. Second, the subjected body is transformed into a functional body by virtue of reconceiving it as a “bearer of forces and the seat of duration.” (DP 155) It is no longer a mechanistic body, but an organism, one that is capable of activity and can be trained through a temporal elaboration of movement bringing about the desired behavior. (DP 155-56, 159)

In The Will to Knowledge, Foucault maintains his claim that the target of relations of force is still the body. In fact, the distribution of power relations is “directly connected to the body,” and thus Foucault describes his project as an attempt to write a “history of bodies … [where] what is most material and most vital in them has been invested.” (WK 152) Yet, whereas in Discipline and Punish the main focus of the activity of power is the subjection of bodies, rendering them pliant, and extracting forces out of them, Foucault’s introduction of resistance as an inherent part of every power relation casts doubt on the possibility of a coherent view of the body.

In order to account for this problem, I argue that we should recognize that bodies are not ontologically distinct, but should rather be conceived as forces situated within a larger field of forces. The problem of the status of the body has already been pointed out in the literature. Judith Butler, for instance, argues that Foucault appears to presuppose a prediscursive body on which regimes of discourse are inscribed. This must be a “universal” body, one that is prior to any discursive construction and is a “dynamic locus
of resistance.” Accordingly, the inscription must be external to the body, and acts upon
the body, which for Butler requires an ontological distinction between the two. Butler
argues, therefore, that this prediscursive body is imbued with drives and is the source of
resistance immanent to any power relation. Yet, to conceive of the body as resisting
external force relations restores a juridical understanding of power that Foucault claims to
purge. Under this view, resistance is due to a body that is outside a relation of power, and
thus freeing it would simply require eliminating the power relation. Reinstating juridical
power would commit Foucault to the “promise of liberation” we find in psychoanalysis
of which he is critical in The Will to Knowledge.

Taking a different approach, Paul Patton argues that Foucault presupposes a certain
conception of the human being, namely as a body that has capacities and is “composed of
forces.” But whereas Butler takes this prediscursive body to be a problem in Foucault’s
account, Patton suggests that this view allows for opening up the possibility of resistance,
and thus rebuffs the charge of Foucault being a philosopher of domination. For Patton, in
both Discipline and Punish and The Will to Knowledge, Foucault maintains that the body
is the target of power relations, in both of its forms, that of the micro-physics of power
and that of force relations. This body must have specific capacities, capable of pleasure
for instance, and is a site of force activity while being subjected to the inscription of force
relations. The body is, furthermore, the site of resistance to the activity of forces in any
power relation. This provides Foucault with the means to argue that resistance will be

79 Judith Butler, “Foucault and the Paradox of Bodily Inscriptions,” The Journal of
80 Butler, “Foucault and the Paradox of Bodily Inscriptions,” 606.
81 Paul Patton, “Foucault’s Subject of Power,” Political Theory Newsletter 6, no. 1 (May
present in every power relation, but it would not justify normative views favoring resistance as opposed to domination.

For Patton, resistance, therefore, springs from a “minimal concept of persons,” an active body that is subjected to training but is also capable of turning forces onto itself in order to govern itself. In a Nietzschean sense, turning forces inwards allows for deriving ethical codes while simultaneously providing grounds for normative claims. Consequently, Foucault is able to distinguish between different operations of power, between domination and resistance, but is unable to provide the criterion for determining which power relations are preferred. Instead, Foucault’s view for Patton “exposes the limitations of the demand for such criteria,” for Foucault gives an answer to the question of why resistance occurs. Rather than asking the question of whether we should advocate resistance or not, we should recognize that resistance is the inevitable outcome of the exercise of force on a body, which itself unsettles asymmetric power relations, and thus opens up the field of possibilities. This is primarily the role of genealogy, to uncover elements that we can dispose through shedding light on their contingency. For Patton, genealogy does not offer a priori transcendental conditions, but rather historical conditions, for what is taken to be necessary today might be viewed as contingent

82 For example, in the Second Essay of On the Genealogy of Morals, Nietzsche argues that once the instincts of the nobles can no longer be freely expressed in an organized society, the force of instinct is turned inwards resulting in the appearance of conscience, which is eventually moralized and taken to be good. Friedrich Nietzsche, On the Genealogy of Morals and Ecce Homo, ed. Walter Kaufmann, (New York: Vintage, 1989), 86-87. Patton contends that our ability to master and regulate our sexual relations is an illustration of how we acquire a minimal degree of autonomy as a result of having “the human will to power turned back against its subject.” Patton, “Foucault’s Subject of Power,” 27.
84 Patton, “Foucault’s Subject of Power,” 66.
tomorrow. Genealogy, thus, provides a historical analysis of the “contemporary limits of the necessary.”

Patton allows for an understanding of the body capable of resistance given that it is constituted out of force relations. Several problems, however, remain unresolved with Patton’s view. First, Patton is unclear on the ontological status of the presupposed notion of a human being of which Foucault makes use. This leaves his view open to the charge Butler raises of slipping into a juridical view of power. Moreover, Patton maintains that the best way to understand power in Foucault’s work is as capacity, a view Foucault clearly steps away from as I’ve argued earlier in the chapter. The main problem that arises is how we can conceive of a “thin subject of power” as a dispersed body composed of multiple forces and yet having a capacity for exercising power. It would seem this capacity would have to be reduced to the actual activity of forces that constitute the body, and is thus no longer the body’s capacity in any meaningful sense. Foucault’s arguments show that what Patton identifies as the body’s “capacities” are effects of power relations, which precludes identifying the human being as the source of resistance.

Alternatively, in order to break away from a body that is external to power, Oksala argues that attributing to the body the capacity of resistance requires relinquishing certain elements that we find in Discipline and Punish. As Oksala points out, we find a different view of the body in The Will to Knowledge, and thus we should abandon viewing the body as a strictly material object, for that passive conception of the body allows us to

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85 Patton, “Foucault’s Subject of Power,” 68.
86 Patton, “Foucault’s Subject of Power,” 69.
explain discipline but not resistance. Oksala suggests that we instead conceive of the body as capable of experience, which provides us with the means to recognize that the body is a site of resistance. Given Foucault’s commitments, experience is only rendered intelligible through discourse, but the body is also capable of unintelligible experiences.

Oksala argues that whether the body is constituted in its entirety discursively or not is irrelevant, for Foucault’s ontology does not depend on bodies. It is experience, on the other hand, that can fall within the confines of discursive limits, or outside those limits. In other words, experiences can be of the normalized subject, but the ones Foucault is more interested in are limit experiences that fall outside the discursively defined subject. These experiences are certainly unintelligible, yet they allow for “wrenching the subject from itself, of seeing to it that the subject is no longer itself, or that it is brought to its annihilation or its dissolution.”

Oksala, therefore, reads Foucault as thinking of limits and transgression as reciprocally dependent. Consequently, discourses along with the transgression of their limits are both constituted by discursive practices, which are preconditions for intelligibility. Yet, limit experiences cast doubt on the understanding of subjectivity and disrupt normalizing frameworks. Therefore, through such peripheral experiences, bodies dissolve subjectivity by resisting normalizing forms of power. This is why Oksala argues that what has primacy in Foucault’s work, is not the ontology of the body, but the ontology of the event. There is no prediscurisve body that is ontologically distinct, for

88 Oksala, “Anarchic Bodies,” 112.
89 Oksala, “Anarchic Bodies,” 114.
90 Oksala, “Anarchic Bodies,” 114.
there is a body that is always contested at the limits. Oksala offers an example of trauma, where sometimes the subject recounts the experience from a third-person perspective, and thus recognizes it as an event outside the subject. These limit experiences lead to contesting one’s conception of the body as a result of the collapse of frameworks of intelligibility.  

But whereas Oksala’s view disposes of the problem of the externality of the body altogether, it still falls into the problem that Patton had aimed to resolve. Patton had argued that Foucault can make room for resistance through introducing a theory of the Nietzschean subject. Under Oksala’s view, it is not only the subject that is dislodged and rendered alterable due to the activity of forces, but also the body. Under this reading, the body is transformed by limit experiences that bring about the breakdown of discursive intelligibility. But this also implies that there is no meaningful sense of understanding resistance in terms of force relations between the body and the surrounding. Reading Foucault as introducing an ontology of the event relegates the status of the material body to secondary and locates resistance only in the experiential body. This renders resistance possible only when experience becomes unintelligible and discursivity collapses. Nonetheless, limiting resistance to such experiences appears to be at odds with Foucault’s repeated insistence that every power relation inherently involves resistance. Consequently, Foucault’s view requires that we maintain a conception of bodies as material and as primarily composed of forces, and it is this composition that renders resistance immanent. Ultimately, a coherent understanding of the relation between bodies and forces in Foucault will have to reject an ontological distinction between the body and

the forces acting on it, while not reducing resistance to a capacity we attribute to the body. In order to also account for Foucault’s insistence that every power relation necessarily involves resistance, I argue in the next section that Foucault’s account of power relations that invest bodies should be understood in terms of an underlying field of forces.

**Materiality and Contractarianism**

Overcoming the problems with Foucault’s view of a body endowed with resistance requires that two issues be addressed. First, we must introduce a reading that rejects an ontological distinction between the body and the functioning of power in order to avoid Butler’s charge. Second, a body that is actively resisting must be “composed of forces” as Patton argues, however, without sliding back into a view of power as capacity. This restores to the body a strictly material presence and allows for maintaining Foucault’s insistence that inscription is always of a material nature. Significantly, this means that understanding the body as the material site of the constitution of subjectivity is a precondition for Foucault’s view of power and offers a material ground for his politics.

I suggest, therefore, that we interpret power relations as being the product of a field of forces that dissolves any ontological distinction between subjects taking part in social interactions and between power mechanisms. Foucault’s corpus is replete with the rejection of unities in favor of an analysis of local, historical, and contingent conditions that render discourses possible. This also applies straightforwardly to the subject that is constituted through and affected by multiple force relations. Force relations are, therefore, rendered intelligible by being linked to specific discourses that are agonistically related to other discourses. Moreover, Foucault’s assertion in *The History*
*Will to Knowledge* that we never find power, but only the “moving substrate of force relations” entails a rejection of substantial metaphysical unities. Accordingly, there is no “mysterious substance” identified as power, instead we find what can be best understood as a *field* of forces that, under specific configurations, come to constitute subjects, processes, as well as historical narratives once a particular discursive grid of intelligibility is applied. These forces do not individually have an independent existence, but only exist in relation to other forces. Moreover, the interactions between different configurations of forces produce power relations, and since each configuration in fact comprises of force relations, resistance is bound to be present. In contrast to force relations which operate on material bodies and constitute the basis upon which social interaction occurs, power relations require a different level of description and pertain to the discourse of subjects and events. Foucault’s politics, thus, develops out of his subscription to a material view of the activity of forces.92

Is Foucault’s work to be understood metaphysically then? Foucault’s appeal to forces seems problematic especially in the absence of a metaphysical basis that animates the activity of forces such as Spinoza’s conatus. Consequently, Foucault’s insistence that force is not a substance may not suffice to avoid slipping into a pre-Kantian dogmatism. Yet, we can understand Foucault’s analysis of force relations as an outcome of an empirical approach that derives conclusions from an analysis of historical social phenomena. This understanding of forces is an outcome of recognizing the shift in the

92 Foucault had already been developing this position in *Society Must be Defended*, where he finds in Boulainvilliers’s work the beginning of a new analysis of history that he comes to endorse, one that does not treat it as an “inert substance”, but as forces that are struggling within the social body. (SMD 168)
activity of juridical power as exemplified historically. Consequently, if we read Foucault as introducing a framework that is justified by an empirical account, we can understand forces as playing a primarily explanatory role of phenomena we find in the social sphere, such as discipline.\(^{93}\) Foucault thus intends to work backwards beginning with our present experience to provide a framework that would account adequately for its historical development, and thus offers a “history of the present.” (DP 31) This explanatory framework primarily involves a rethinking of the traditional conception of the operation of power.

Rejecting a metaphysical understanding ultimately requires turning to Foucault’s Nietzschean side. Indeed, Foucault had already provided an argument against a metaphysical reading in his 1973 lectures *Truth and Juridical Forms*. In those lectures, Foucault accepts Nietzsche’s claim that knowledge is invented, and thus is not a direct consequence of human nature.\(^{94}\) This leads to a gap not only between our knowledge and the world as in Kant, but it also dislodges what Kant took to be fixed a priori conditions for experience. Under Foucault’s reading of Nietzsche, this shows that forms of knowledge are historical; they transform given our role in inventing them. The absence of universal conditions for knowledge implies that knowledge cannot be objective and is always situated within power relations, for we merely have conditional historical

\(^{93}\) For instance, in *The Birth of Biopolitics*, Foucault argues that power relations on their own have no explanatory value apart from any concrete content or apart from an “analytical grid” that provides a framework for the content. I will return to the problem of the transcendental and empirical aspects of Foucault’s work in chapter four. (BB 186)  

\(^{94}\) There is a question as to whether Nietzsche invokes metaphysical claims to justify his position. One could read Nietzsche’s view of the will to power as primarily epistemological rather than metaphysical. This discussion, however, warrants an independent inquiry which will be beyond the scope of my project.
knowledge that is always “aimed, maliciously, insidiously, and aggressively, at individuals, things, situations.”

Let us return to the key reversals Foucault introduces against social contract theory. If I am right that Foucault’s conception of power rests on the contention that the activity of force relations must be material, this casts the question of the compatibility between Foucault’s relational view of forces and contractarianism in a different light. Foucault’s argument that his analysis of power relations involve reversing a contractarian understanding of power hinges on how we understand politics to be grounded. Essentially, for Foucault, politics must be based on a material analysis, which in his view is manifested in terms of force relations that invest bodies and constitute subjects. Therefore, Foucault appears to expand the political field, in contrast to Rawls, as he does not limit the political question to the kinds of institutions that must be introduced.

Foucault, therefore, does not begin with non-political power in the form of a capacity, but rather argues that social relations are political through and through. Moreover, Foucault seeks to avoid appealing to some fundamental right on which politics can be grounded, for politics must be understood in terms of the tactical and strategic arrangement of forces. As I shall maintain in chapter five, this conception of politics

95 I do not take this to be a sufficiently developed answer to the question of whether Foucault makes metaphysical assumptions. This will be further discussed in chapter four. For my purposes, however, I want to suggest that understanding forces in terms of a field clarifies Foucault’s understanding of power relations with respect to the notion of power assumed in social contract theory. This opens up the space for difficult metaphysical questions, but dealing with them is beyond the scope of this chapter.

96 This distinction will become clearer with the discussion of Hobbes in the next two chapters. For Foucault, the language of rights is often used strategically. As stated in an earlier footnote, this is clear in the Foucault’s claim that the juridical discourse of rights
cannot offer any normative content. This suggests that the Hobbesian project of deriving normativity from contract is not necessarily superfluous as Foucault maintains. Consequently, if politics goes beyond the operation of law as prohibition, a political view must account for how particular subjects are constituted through material processes. Foucault’s attempt to offer such an explanation is through understanding the social sphere in terms of a field of agonistic forces. This carries with it a significant implication with respect to the compatibility between Foucault’s view and social contract theory. Ultimately, whether the two are compatible depends on whether contractarianism offers a material constitution of subjectivity. Though this is entirely absent in Rawls, I shall argue in the next chapter that Hobbes puts forward such a view before returning to a fuller discussion of this in chapter five.

As for the problem of subjectivity, in his later work “The Subject and Power,” Foucault identifies his main concern in terms of the question of subjectivity. (SP 326-27) Accordingly, Foucault recognizes that a political view cannot overlook the material mechanisms that shape and transform subjects. Ultimately, Foucault’s arguments rest on the contention that the political conclusions of the proponents of social contract theory are not grounded in any politically relevant material processes, and thus fail to account for the functioning of power from below. The extent to which Foucault’s reversals apply to Hobbes, then, will depend on whether Hobbes indeed does limit the political field to the operation of law that emerges out of contract. Yet, if Hobbes’s politics entails an account of how political subjects are physically constituted and continue to be shaped by

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aims at concealing a political historicism that was developing in seventeenth century England centered on the problem of the conquest. (SMD 110-11)
sovereign activity, it would seem Hobbes’s version of the social contract can offer insight if understood alongside that of Foucault. In other words, my argument amounts to claiming that a careful reading of Hobbes results in rejecting the opposition between Foucault’s power relations and a specific version of social contract theory that maintains that subjects are constituted through material process, whether natural or through state-related tactics. The next chapter will make this link between Hobbes and Foucault clearer by arguing that Hobbes’s politics emerge out of a metaphysically material understanding of human beings. Consequently, Hobbes takes political reasons and state tactics to depend on the physical constitution of subjects.

The final reversal that Foucault introduces is that of inequality. Foucault is certainly right in arguing that beginning with the presupposition of inequality inherent in force relations will lead to uncovering a domain of force activity that we do not identify if we begin with equality. The difference between Foucault’s view and that of Hobbes become clearest at this point, through locating the tactical and strategic activity of forces in relations of inequality. Yet, this difference only establishes a complementary relation between the reading Foucault introduces and Hobbes’s contractual view. The two views do not have to be understood as developed out of different grids, for though there are

97 In fact, Hobbes may have the means to maintain this given his rich account of the passions and how the actions of the sovereign affect primarily the passions, allowing for amplifying fear while reducing the influence of other passions such as vainglory. (L 128-29)
98 Of course, there are many other differences between Hobbes and Foucault, including Hobbes’s attempt at introducing a universal account of politics, while Foucault argues for a local analysis. My focus, however, is on the role power plays in both political views.
99 One could argue that we find a similar move in Hobbes. By striking fear in subjects to ensure stability, the sovereign employs tactics as a product of a relation of inequality with subjects.
significant differences, the overlap still allows for putting forward a consistent position out of them.

One problem that arises out of arguing that Foucault’s position is compatible with some version of social contract theory is that of consistency with his later political work, primarily that of the ethics of the care of the self. Once Foucault provides the underlying historical conditions of possibility for the current practices of government, he moves towards introducing an ethics that denounces normalization, and thus implies an ethical imperative of “not being governed so much.” (WC 265) This has led some to raise the contentious charge of libertarianism, for Foucault appears to advocate autonomy in opposition to state-related processes.¹⁰⁰

Charging Foucault with developing a libertarian politics, nevertheless, seems to involve an unjustified leap. Foucault introduces the conditions that make present day government possible, yet he only provides the normative basis for transforming them in his ethical work. However, I take Foucault’s imperatives in his ethics of the care of the self to be primarily concerned with the problem of sexuality from which they emerge. Foucault’s intent was to make room for the heterogeneous and diverse forces that have been stifled through practices of government that take people’s lives as their target and impose rigid classifications. Being true to Foucault’s insistence that analysis must be local, however, suggests we should avoid taking such an ethics to hold the same normative force when it comes to other ethical and political questions. Accordingly,

¹⁰⁰ Though Foucault does not aim to eliminate government altogether and locate a promise of liberation in its absence, some have still maintained that Foucault’s normative claims support a neo-liberal position that is less disciplinary and normalizing. Daniel Zamora and Michael C. Behrent, eds. Foucault and Neoliberalism (Cambridge, UK: Polity Press, 2015).
when asking the question of the emergence of the state, we need not arrive at the same conclusions. Instead, Foucault’s work in *Society Must be Defended* offers an alternative path that deals precisely with the problem of a political discourse that is not reducible to an art of government.

**Conclusions**

To sum up, my argument in this chapter involved linking Foucault’s reversal of the operation of power in social contract theory to the underlying view of the activity of force relations. I have argued that the shifts Foucault introduces against juridical power can be understood primarily in terms of how material conditions understood in terms of forces come to constitute political subjects. Understood in these terms, however, we can cast doubt on the extent to which Foucault’s view is in fact opposed to Hobbes’s political account. The two positions can be regarded as complimentary on the condition that we locate in Hobbes a grounding of politics on materiality that allows for the transformation of subjects. In order to establish this relation between Hobbes and Foucault, the next chapter will argue that Hobbes’s politics develops out of his metaphysical materialism, and thus political action entails, among other things, influencing subjects physically through targeting their passions.

Understanding politics through focusing on material processes reinforces my argument against Rawls. If ideals are to be inculcated by institutions primarily, then we should be cautious of the means by which this process occurs. Whereas Rawls fails to justify the normativity of his position in the absence of anything but a vague moral ground for his politics, beginning with a material analysis warns against simply appealing to intuition for political arguments and offers insight into how political subjects are
formed. However, as Patton maintains, such an analysis cannot offer any normative content on its own. This emphasizes the significance of the complementary relation between Foucault and Hobbes, where the two views differ primarily in beginning the analysis from identifying conditions of equality or inequality. Hobbes, however, seems to have the means to offer normative content beginning from analyzing material conditions, to which I will return more fully in chapter five.
Chapter Three

Method and Contract in Hobbes

In the previous chapter, I highlighted Foucault’s argument against Hobbes and introduced Foucault’s understanding of political power in terms of the material investment of bodies. I also argued that though Foucault attempts to reverse contractarian presuppositions, including those of Hobbes, by uncovering a more pervasive operation of power beneath contract, the conclusion Foucault is warranted in drawing is weaker than the one he puts forward. I have maintained that given Foucault’s emphasis on the materiality of the operation of power, his view can be understood as consistent with the one Hobbes introduces, as long as we understand Hobbes to ground politics materially. This does not mean the two views overlap entirely, for as I have maintained, we arrive at a different analysis of political power depending on whether we start with the condition of equality, as Hobbes does, or inequality inherent in social relations, which is Foucault’s position.

The force of a material basis for political power can be realized in relation to the argument I presented in chapter one. I have argued that Rawls cannot justify his normative content as long as he is committed to a freestanding view that sets aside all non-political justifications that follow from adopting a comprehensive doctrine. The Foucaultian-Hobbesian view I introduce offers an alternative by beginning from a material analysis. As I show in chapter five, it is possible to derive some normative dictates from such an analysis, though this normative view remains less ambitious and more limited in scope than the one Rawls presents.

In this chapter, I argue that we can ground Hobbes’s politics materially, which
renders his position compatible with the one Foucault introduces. This material grounding would attribute to Hobbes a naturalism that begins with an understanding of how we are metaphysically affected by the world, rather than conceiving his position as a self-sufficient view that arrives at normative conclusions without requiring a scientific understanding of human nature. I begin by several interpretive positions that frame Hobbes as a skeptic and subsequently question his naturalistic commitments.101 According to these readings, Hobbes acknowledged a human inability to access natural things, and thus was more concerned with introducing a view of nature that justifies his political conclusions. I argue that though Hobbes was aware of the difficulties of understanding the world, he was committed to the position that a properly scientific method would allow us to overcome the problems presented by skepticism. Consequently, for Hobbes, the commitment to a specific method would allow us to make metaphysical claims about the world that we can deem scientific, where ‘science’ is understood by Hobbes as “knowledge of consequences.”102 This leads me to raise questions about how we should understand Hobbes’s notions of the state of nature and the social contract. In the last section of the chapter, I offer an interpretation of these concepts through the lens of Hobbes’s geometric method.

Skepticism and Experience

Several arguments can be introduced to shed light on the skeptical side of Hobbes.

101 The main arguments I present for the skeptical Hobbes will be those of Oakeshott and Strauss, though I will also treat others. Michael Oakeshott, Hobbes on Civil Association (Indianapolis: Liberty Fund, 1975); Leo Strauss, Natural Right and History (Chicago: University of Chicago Press, 1953).

102 In Leviathan, Hobbes specifies that what is peculiar about scientific knowledge is arriving at conclusions by using universals. (L 35)
One significant line can be traced back to Hobbes’s commitment to a distinction between
the perceived properties of objects and reality, or what Locke later refers to as secondary
and primary qualities. The skeptical conclusion isn’t straightforward here, but, as I will
argue, it arises out of a tension between Hobbes’s empiricism on the one hand and his
confidence in reason’s ability to produce scientific knowledge, or sapience, as an
outcome of operating on universals on the other.

Hobbes allots to reason the role of developing scientific knowledge, but our
rational faculty is not something given. Rather, it develops out of speech. Only upon
developing the capacity for speech are we able to articulate knowledge claims in terms of
universal names and independently of particular instances. In the absence of speech,
moreover, one may be able to arrive at particular conclusions, yet these conclusions fall
short from the certainty of universals. Hobbes offers the example of a triangle,
maintaining that without the use of speech, one may be able to conclude that the sum of
angles of a particular triangle is equal to two particular right angles. But arriving at the
general conclusion requires the use of words, for it entails reasoning through universal
terms and deriving pertinent conclusions that apply to the universal term triangle. (L 21-
22)

Our discursive ability, however, primarily depends on sensory perception, as we
begin by introducing marks to refer to particular perceptions allowing for “transfer[ing]
our mental discourse into verbal.” (L 19) But whereas the particularistic nature of
perception enables us to form fallible predictions about the future by using the faculty of
prudence, the use of marks as general terms that refer to universals provides us with the
means to make use of a more reliable faculty, that of reason, thus moving towards
science. (L 14-15, 37) It is here that the problem emerges. Hobbes offers a mechanistic understanding of perception, thus reducing the causes of perception to motions in the body. (L 1-2) Moreover, his commitment to understanding reality strictly in terms of matter and motion entails a recognition that properties arising in perception do not belong to the objects themselves. However, perceptions of these properties are retained in the imagination, which Hobbes identifies as “decaying sense.” (L 4) These decayed impressions develop into a train of thought, or a mental discourse that ultimately is transformed into verbal discourse with the acquisition of speech. (L 13-14, 19-20) Accordingly, by treating the residue of perceptions as referents, we posit universals that are then employed by rational syllogisms. Yet, as a nominalist, Hobbes considers universals to be nothing but “one name to many things” and is committed to their mere linguistic role while recognizing the metaphysical existence of their particular referents only. (EL 22) Reasoning about the properties of objects thus becomes illusory. How? On the one hand, Hobbes’s nominalism precludes the metaphysical existence of universals pertaining to those properties. On the other hand, these properties are also not instantiated in nature, since they are only phenomenal, or “phantasms”, and do not belong to material objects. The question that follows concerns how reasoning in terms of universals is able to unpack representational content in order to arrive at knowledge of the world metaphysically. If reasoning depends on notions derived merely from phenomenal properties, then knowledge appears to be limited to our phenomenal experience. Hobbes’s commitment, however, to the claim that the real world consists of matter in motion raises the question of how we arrive at such speculative conclusions beginning
from our own experience.\textsuperscript{103}

If this first argument casts doubt on the notion that Hobbes is committed to the idea that we have a capacity to produce an accurate representation of the world, an even more palpable problem can be identified with a main tool of speech, according to Hobbes: definitions. In \textit{Leviathan}, Hobbes repeatedly emphasizes the need for having precise definitions that constitute a sound basis for our conclusions. (L 23-24, 33) Yet, Hobbes still maintains terms are arbitrarily assigned. This is why Nicholas Dungey argues that Hobbes is “skeptical of the traditional claim that reason provides access to … reality”.\textsuperscript{104} Given that words are fixed conventionally and do not necessarily reflect the world, Hobbes appears to be committed to a skeptical position as opposed to a metaphysical view. In fact, this charge had already been raised by Leibniz, who accuses Hobbes of being a “super-nominalist”, since for him “truth allegedly depends on the definitions of terms, and definitions depend on the human will.”\textsuperscript{105} In addition, Hobbes maintains that truth and falsity only pertain to speech and its rules, suggesting that truth depends on our definitions of terms as opposed to the relation of judgments to the real world. (L 23) This has led Michael Oakeshott to argue that Hobbes is committed to a skeptical doctrine, where knowledge in Hobbes’s view does not refer to the world.\textsuperscript{106}

The problem is further complicated once we examine Hobbes’s conception of

\textsuperscript{103} I will return to a more complete discussion of Hobbes’s methodological argument in the next section to argue against this reading.


\textsuperscript{106} Oakeshott, 24–27.
adequate definitions. If Dungey and Oakeshott are right in maintaining that definitions follow from common notions and thus remain a problem for any reading of Hobbes as a metaphysical realist, this raises the question of identifying a precise starting point, or the simplest definitions. While dealing with this issue, Hobbes maintains that he does not need to, and in principle cannot, provide a justification for recognizing motion to be the highest universal. In fact, Hobbes argues that treating motion as the basic universal cannot be disputed and should be regarded as self-evident as definitions “are known by nature… [and] need no demonstration.” (DCo 80-81) In De Corpore Hobbes states

…it is not necessary to dispute whether definitions are to be admitted or no. For when a master is instructing his scholar, if the scholar understand all the parts of the thing defined, which are resolved in the definitions, and yet will not admit of the definition, there needs no further controversy betwixt them, it being all one as if he refused to be taught. But if he understand nothing, then certainly the definition is faulty. (DCo 84)

In other words, a definition of a universal name is adequate as long as its components are unequivocal and thus sufficiently clear. But apart from this, Hobbes does not provide the means to distinguish good from bad definitions, or why we should accept one set of definitions over another. Looking at Hobbes’s dispute with Descartes over the nature of substance may be helpful here. Hobbes and Descartes, though in agreement when it comes to the basic constituents of the physical world, were led to different conclusions as to the nature of substance. Hobbes treats substance as synonymous with body, while Descartes argues for the existence of incorporeal substances. (L 27) In the Third Set of Objections to the Meditations, Hobbes argues that we can only understand an entity
performing an act, even that of thinking, if it is a body. Yet, this argument is only valid if we already presuppose that substances must be bodies. Consequently, Hobbes doesn’t give an explicit argument against Descartes’s position without presupposing the truth of his conception of substance, though he leaves some room for speculation. At best, the argument that Hobbes can give against Descartes is one that argues that his model is able to explain mental properties materially. If Hobbes intended to use such a line of argument, he may have been right about his conclusions, but his argument is certainly flawed, as numerous difficulties afflict his account. Of course, explanatory power need not necessarily convince the Cartesian, who may still take issue with presupposing the existence of one type of substance. As such, the disagreement boils down to the definitions at hand, and although Hobbes claims that definitions need no demonstration and follow common notions, he still seems to conveniently define terms in a manner that would lead to the conclusions he intended to defend. As Pettit notes, however, Hobbes often redefined terms under the pretext of correcting earlier authors. This, however, has led several of Hobbes’s contemporaries to complain that such definitions become foreign, therefore violating the claim to commonality.

Finally, a skeptical reading of Hobbes is rendered even more complete with another argument pertaining to the nature of causal knowledge. An account of causation for Hobbes only gives us hypothetical knowledge and does not introduce certainty. (L 71)

108 Of course, Hobbes accuses Descartes of making the same mistake, i.e. presupposing that incorporeal substances exist.
In fact, knowledge of causes is always of the form “if X occurs, then Y.” But whether X occurs or not remains questionable. Now Hobbes supplements this position with the claim that sensory experience provides us with certainty. Accordingly, the natural science we develop (science understood in the Hobbesian sense as the “knowledge of consequences”), is transformed into actual certainty with the addition of sense perception confirming the occurrence of particular events. (L 35) But given the phenomenal nature of sensory perception, since the contents of experience do not provide us with direct knowledge of the world, it remains unclear how we can arrive at certainty through causal knowledge by reasoning about strictly phenomenal properties.

This line of argument is supplemented by a Straussian reading arguing that Hobbes eventually yields to being a “methodical materialist” as opposed to a “metaphysical materialist”.110 For Strauss, Hobbes is committed to the view that all knowledge we have of the world is constructed conventionally. In order to circumvent endorsing a non-teleological view of the world that collapses into arbitrariness, geometry for Hobbes plays the role of introducing order into physics, without assuming the existence of final causes. For Strauss, this move serves the purpose of avoiding the arbitrary ancient atomist model that precludes physics, but it also provides us with knowledge we construct, for that is the only kind of knowledge of which we can be certain.111 Two implications follow. On the one hand, the world remains unintelligible, and apart from geometry or politics, which are constructed by us, any science we develop can be hypothetical at best. Hypothetical knowledge, however, is insufficient to ground

111 Strauss, *Natural Right and History*, 171–73.
the science of politics that Hobbes intends to put forward. On the other hand, the
conventionality of our scientific understanding of the world has the advantage of bringing
it closer to mathematics. Knowledge of the world then becomes constructed by us, and
consequently open to certainty.112

Strauss complements this argument for Hobbes’s methodological materialism by
replacing the metaphysical basis of Hobbes’s view with a moral one. In *The Political
Philosophy of Hobbes*, Strauss argues that an adequate reading of Hobbes’s views cannot
be limited to the account he expounds in *Leviathan*. Strauss contends that a careful
reading of the *Elements of Law* and *De Homine* uncovers a debt to Aristotelianism that
Hobbes comes to uproot from the foundations of his later works.113 With the aim of
diminishing the role of the geometric method in Hobbes, Strauss introduces a reading that
focuses on the influence of Aristotle and Thucydides as opposed to Galileo and Euclid.
Strauss claims that method not only had a minimal role in the political conclusions at
which Hobbes arrives, but is also at odds with them. In effect, the clearly laid out
geometric approach Hobbes comes to adopt in *Leviathan* is relegated to a secondary
role.114 As such, Hobbes’s new political science should be understood to be grounded
morally as opposed to naturally, for only on such a basis can Hobbes’s view become
normatively pertinent.115

Such normative content cannot arise from a materialist-naturalistic description of
human nature, but requires that Hobbes already recognizes some passions as conducive

112 Strauss, *Natural Right and History*, 174–75.
for the well-being of human beings, while seeing others as destructive and sources of conflict. For Strauss, Hobbes was aware that the right social order cannot be realized unless we can scientifically identify it along with the conditions for bringing it about. But a non-teleological natural law is not committed to the natural end of humans as rational and social, and thus must be deduced from realism instead, from how we actually lead our lives. But what is common to humans cannot be reason, but is rather passions, and it is from there that we must derive natural laws. For Strauss then, the fear of violent death at the hands of others is the most powerful passion which is linked to the most natural desire, that of self-preservation. Consequently, the Straussian reading locates the moral basis in a normative evaluation of the passions. The fear of violent death is the passion to be reckoned upon to arrive at peace with the aid of reason, whereas vainglory produces conflict. Through introducing an analysis of the passions, Hobbes thus is able to make explicit the end of the state, not through a teleological natural understanding, but by introducing an artificial science that finds its ends in a traditional moral understanding.

One consequence of this reading of Hobbes is that it overturns the order of dependence between Hobbes’s metaphysical materialism and his political philosophy. Instead of conceiving of politics as grounded in an understanding of nature, Strauss argues that Hobbes is only warranted to contend that knowledge of the world serves the purpose of corroborating the conclusions Hobbes derives politically. On the one hand, supposing that the world consists of matter in motion is a move that reduces nature to mathematical principles, and thus provides us with a hypothetical framework. But this simultaneously opens up the space for freely constructing our understanding of nature

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artificially without being limited by a metaphysically real view of nature. Consequently, the control of nature stems precisely from its unintelligibility. Knowledge, artificially constructed, becomes unlimited.\textsuperscript{117}

**Definitions and Method**

Responding to these arguments for reading Hobbes as a skeptic necessitates engaging with Hobbes’s method when it comes to introducing definitions. Hobbes seems to anchor knowledge in speech, which is itself based on phenomenal experience. In addition, Hobbes’s claim that definitions are based on agreement and are adequate as long as they are unequivocal and clear suggests that definitions elude rigorous examination as they are the product of mere convention. At the same time, Hobbes maintains that it is necessary to correct the inadequate definitions of earlier authors, and thus implicitly endorses a criterion by which one may judge some definitions to be adequate, while taking others to lead to “false and senseless tenets”. (L 24)

How are we then to understand definitions for Hobbes, and why are we to accept their indisputable nature? In *De Corpore*, Hobbes identifies the cause of all universal things as motion, while arguing that the highest universals cannot be demonstrated. (DCo 69-70) Interestingly, Hobbes makes this reference while putting forward his view of definitions. In fact, a definition for Hobbes must include the causes of the notion in question, which can be identified according to his method of composition and resolution. (DCo 82) As such, we begin by “resolving” a particular name into its universal parts, thus abstracting from sensory experience in order to arrive at its basic constituents. (DCo 83) Reason plays a crucial role in such a method as it serves to either derive causes from

\textsuperscript{117} Strauss, *Natural Right and History*, 175.
effects or effects from causes, while functioning as the faculty of “reckoning” for the purpose of constituting analytic and synthetic knowledge.

On the one hand, abstracting from particulars of experience to universals involves analysis, or what Hobbes calls alternatively “resolution” into the basic terms and components. This resolutive aspect can be applied to arrive at the most basic universal unit, that of motions. Through analysis, we are able to recognize that motion is at the heart of all material phenomena. The other function reason attains is synthetic, as it serves to “add” and “subtract” motions in order to derive the respective effects that follow from each combination. Accordingly, reason now plays a synthetic role, or fulfills a “compositive” function that leads it to form conclusions about the effects of specific combinations of motions. Whereas analysis serves the purpose of deriving causes from effects, synthesis, through a clear application of reason’s function as reckoning, introduces the effects that follow from causes. A clear example of this method is the synthetic account of the passions Hobbes invokes, as it seeks to identify effects following from different combinations of passions, each of which can be reduced to motions.

Furthermore, definitions under Hobbes’s view also entail a strictly corporeal understanding of reality. In contrast to traditional Euclidean geometry, Douglas Jesseph argues convincingly that Hobbes’s method aimed at producing a geometry that introduced corporeality and causality into its basic components. Jesseph points this out through tracing how Hobbes redefines geometric notions such as point, line, and circle to include both their causes and their material manifestation.\textsuperscript{118} To recognize this as a mark

of a legitimate definition already has several implications.

First, under this view, Hobbes offered a standard for determining the legitimacy of definitions. Definitions that do not fully entail the basic universal constituents remain lacking, and cannot properly ground knowledge. This clarifies why Hobbes argues that definitions cannot be disputed. To say a definition is self-evident and not subject to dispute must follow from resolving the term into its universal components through an analytic operation. This analytic process remains immune to criticism as it follows straightforwardly from the terms being examined. Importantly, however, without relying on such a rigorous method, Hobbes cannot maintain the superiority of his position over others. It is noteworthy that including motion as a universal term in the definition for Hobbes also entails including causes. For instance, in *De Corpore*, Hobbes contends that a line should be understood as the “motion of a point” and a surface as the “motion of a line.” (DCo 70-71)

Second, recognizing the causal nature of definitions helps clarify in what sense truth and falsity belong to speech. In *Leviathan*, Hobbes contends that “[n]atural sense and imagination are not subject to absurdity. Nature itself cannot err; and as men abound in copiousness of language, so they become more wise, or more mad than ordinary.” (L 25) Hobbes follows Descartes’s position that sensory experience, or the seeming of perception, is incorrigible. Thus, our experience of the world cannot itself be subject to truth and falsity. Yet, as Hobbes clearly states in *Leviathan*, discursive judgments are corrigible and error could result out of a number of matters. (L 33-35) The first cause of absurdity pertains to definitions, requiring that words be consistently fixed to their referents. Consequently, violating the conditions of proper definitions also involves
relying on ones that are not causal in nature and do not follow Hobbes’s method.

Although this criterion allows us to distinguish good definitions from bad ones, it still does not entirely permit Hobbes to avoid the arbitrariness charge raised by Leibniz.

In his objections to Descartes’s *Meditations*, Hobbes states

Now, what shall we say if it turns out that reasoning is simply the joining together and linking of names or labels by means of the verb ‘is’? It would follow that the inferences in our reasoning tell us nothing at all about the nature of things, but merely tell us about the labels applied to them; that is, all we can infer is whether or not we are combining the names of things in accordance with the arbitrary conventions which we have laid down in respect of their meaning. If this is so, as may well be the case, reasoning will depend on names, names will depend on the imagination, and imagination will depend (as I believe it does) merely on the motions of our bodily organs; and so the mind will be nothing more than motion occurring in various parts of an organic body.\footnote{Descartes, “Third Set of Objections with Replies,” 125–26.}

This passage appears to entail a commitment to two contradictory views. On the one hand, Hobbes seems to reject the Cartesian faith in reason’s capacity to unlock our representations of the world, and thus have an understanding of reality. However, the conclusion that Hobbes derives from this passage is not a skepticism that treats the world as inaccessible, but rather the position that the faculties of our mind are arbitrary effects of motions within the body. Accordingly, Hobbes derives a metaphysical conclusion about reality as an outcome of rejecting the Cartesian position. This suggests that Hobbes is not arguing against Descartes’s view that we can know reality per se, but rather what
Hobbes does not accept here is the idea of an immaterial Cartesian subject that possesses
a pre-discursive rational capacity. Reason, instead, is merely the “linking of names … by
means of the word ‘is’,” or to invoke a term Hobbes uses in *Leviathan*, reason is
*reckoning*. Consequently, our arguments inform us about the universal terms we use and
not about the world, which means the operations of reason depend on speech, which for
Hobbes is a capacity that can be traced back to the imagination and perception
understood in terms of motions in the body, and ultimately to the motions in the world
that cause them.

This does not mean that Hobbes renders knowledge about the world impossible.
For if reason is in fact about words, then the correspondence between science and the
world will be less the product of rational thought, and more the outcome of correct
designations of terms. Only once we have correct definitions can we put forward a
science that unfolds synthetically. Of course, as Hobbes maintains, causal knowledge is
only hypothetical, which is why unlike geometry, physics is an *a posteriori* science
where causes must be corroborated through sensory experience.\(^\text{120}\)

Third, instituting a geometric method that is grounded on the knowledge of
causes, which in turn is based on the resolution of particulars into their basic universals,
enables us to more clearly grasp Hobbes’s commitment to metaphysical materialism.
Hobbes introduced a materialistic geometry with the aim of fusing together the rigor of
geometry along with a causal and material understanding of reality. As such, his method

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\(^{120}\) As I maintain in the next section, Hobbes’s claim that politics, alongside geometry, is
an *a priori* science should be understood in terms of pursuing a clear geometric method
that relies on definitions. For Hobbes, like geometry, politics is a science that is
completely constructed by us, though it depends primarily on the kind of beings we are,
i.e. susceptible to being affected by the world.
attempts to structure our experience of the world geometrically, but primarily through introducing the causal nature of the world of experience into the neat demonstrative structure of geometry. In *De Corpore*, Hobbes argues that definitions must include causes because, “the end of science is the demonstration of the causes and generations of things; which if they be not in the definitions, they cannot be found in the conclusion of the first syllogism.” (DCo 82) Thus, Hobbes attempts to apply what he takes to be the only science, that of geometry, to the world. But in order to do this, our experience of the world must also be brought into geometry. Accordingly, since science is the “knowledge of consequences”, geometry itself must be transformed. As Jesseph maintains, Hobbes’s commitment to materialism leads him to redefine geometric terms to be corporeal, as that transforms geometry more clearly into a corporeal science where definitions express “causes by which geometric objects are generated.”

Whether Hobbes is correct in considering that his view will lead to uncovering the geometric understanding of the world is not at issue here. What emerges out of this picture is that Hobbes truly considered that such a view would lead to putting forward a metaphysically accurate account of nature. Of course, it would be anachronistic to ascribe to Hobbes the strict division between knowledge gained by reason and that of experience (or relations of ideas and matters of fact as Hume terms them). Similarly, in a pre-Kantian era, it would be reasonable to ascribe to Hobbes the view that we could unravel

121 Jesseph, 427.
122 The strict distinction between mathematical knowledge and empirical knowledge that Hume introduces is absent in Hobbes. I have argued thus far that Hobbes attempts to include empirical conclusions pertaining to causes and effects into definitions in order to derive a science that is modeled on geometry. This would straightforwardly involve rejecting Hume’s distinction. David Hume, *An Enquiry Concerning Human Understanding*, ed. Tom L. Beauchamp (Oxford: Oxford University Press, 1999), 108–9.
the mysteries of the world through a rigorous methodical structuring of knowledge.

This understanding of Hobbes also allows us to revisit and respond to some of the skeptical readings introduced in the first part of the chapter. To begin with, Hobbes indeed does take the terms developed through speech to follow from phenomenal properties. However, Hobbes still recognizes that it is our task to restructure the tools of speech in a manner that would make possible the building of a well-grounded edifice of knowledge. This restructuring occurs by introducing definitions that adequately account for the causes of things derived analytically. Consequently, science for Hobbes involves primarily a refinement of language to adequately mirror causal relations.

It follows from this that although these definitions initially emerge from common notions based on shared sensory experiences, this does not entail their straightforward soundness. Instead, they should be constantly subject to revision if a science of nature is to emerge. The conventionality of meaning, therefore, does not preclude its development into a precise language that directly mirrors phenomenal properties and indirectly their presumed physical counterparts. As Pettit notes, the connection between words for Hobbes has to make sense in the world, otherwise, we are merely left with incoherent notions. In order to guarantee that sentences are relevant to our world of experience, Hobbes’s solution is to ensure that definitions already entail in them the causal structure we find in the material world.

Reading Hobbes as a metaphysical materialist also provides a further advantage over the Straussian reading. Strauss argued that Hobbes took his materialism to be a freely constructed edifice that orders our knowledge derived from a world that remains

inaccessible. For Strauss, Hobbes’s materialism serves the purpose of verifying the political conclusions he reaches from a normative analysis of the passions. But this also provides the means for arriving at certain knowledge, as long as knowledge is limited to coherence. Yet, if this is indeed Hobbes’s view, it becomes difficult to argue for the legitimacy of his position over others. In other words, if Hobbes is merely concerned with coherence as a product of the definitions with which he begins, Hobbes can no longer reject other definitions and the respective views that emerge based on them. Hobbes’s understanding of the world becomes as good as any other, and is thus less the product of a rigorous approach, and more the product of deciding what to begin with as definitions. The alternative I suggest is to recognize Hobbes truly as a metaphysical materialist who opted to erect his political philosophy on an analysis of how our bodies are affected by the world and what impact this leaves on our natural faculties and passions. Such a body of knowledge could only be constituted once a method has been applied, and upon linking the abstract geometric method to a concrete corporeal world governed by the laws of causality. But if we are to accept this reading, the question emerges as to how we are to understand Hobbes’s use of the state of nature and the contract that initiates the transition towards the civil state. In the next section, I turn to this problem.

124 For Hobbes, linking the phenomenal properties we experience and the corporeal world involves recognizing that phenomenal properties are reducible to motions in the body. This follows the Galilean argument for understanding phenomenal properties in terms of the motions that cause them. Making the argument more cogent requires clarifying the role of conatus in such motions for Hobbes, which I will be discussing in the next chapter. But if we accept that phenomenal properties are reducible to motion, we can introduce those motions as the causes of such phenomenal properties in the definitions, which allows us to analytically arrive at matter in motion as basic universals.
State of Nature as Universal Condition

In the previous section, I argued that Hobbes’s metaphysical view is grounded primarily in his method. This grounding occurs on two levels: first in introducing material definitions that have causal significance, and second in arriving at causes analytically. The question that follows is how we are to understand Hobbes’s civil philosophy in relation to his metaphysics, and what status we should attribute to the state of nature and contract under this reading of Hobbes.

One problem that can be pointed out immediately if we focus on method is that Hobbes initially appears to recognize the possibility of developing a political position based on experience without recourse to rational argumentation. While justifying the publication of *De Cive* before its prerequisites *De Corpore* and *De Homine*, Hobbes states, “[t]herefore it happens, that what was last in order, is yet come forth first in time. And the rather, because I saw that, grounded on its own principles sufficiently known by experience, it would not stand in need of the former sections.” (DC xx) The adequacy of experience to put forward an account of civil philosophy is reiterated in *De Corpore*. Whereas geometry and physics require that we proceed from analyzing sensory experience into its basic universals, and then synthetically composing through definitions the terms of the two sciences, Hobbes contends, “Civil and moral philosophy do not so adhere to one another, but that they may be severed.” (DCo 73) He then delineates two ways to arrive at the principles of politics. The first proceeds synthetically starting from the conclusions established in physics. We can then develop a view of the passions as motions in order to arrive at a geometric understanding of the development of the commonwealth. The second begins with reflecting on one’s own experience of the
passions. While we do not have direct access to the world, and thus are only able to form an understanding beginning from sensory experience, we can directly reflect on our passions. This introspection allows us to recognize that those passions are shared by others, and through analytically resolving the passions and political concepts, we can arrive at the conclusion “that the appetites of men and the passions of their minds are such, that, unless they be restrained by some power, they will always be making war upon one another.” (DCo 74)

The role Hobbes attributes to experience, however, seems to waver between one that is reliable and another that is not. In De Cive, for instance, Hobbes trusts that experience can reliably lead to the same conclusions as reason, but this view changes in Leviathan. In De Cive, Hobbes does not invoke the distinction between reason and prudence, one that unfolds later in the account of human nature he puts forward in the first part of Leviathan. The view he introduces in De Cive, consequently, omits any discussion of the role of prudence in the condition of war we find in the state of nature. War erupts as a result of a natural equality of power on the one hand, and a “willingness to hurt” on the other. (DC 6) This equality of power indicates that there can be no winner in this war, and therefore, it will be perpetual unless an agreement is reached. (DC 12)

The account of war we find in Leviathan is marked by several significant differences. First, though Hobbes maintains the condition of equality of physical strength, equality is also manifested in prudence and in our equal hope in attaining the objects of desire. This triggers the appearance of the causes of war, primarily competition, diffidence, and glory. The role of prudence, however, is essential to understand how conflict arises, for it is our confidence in our own prudential capacities that allows us to
have hope. For Hobbes, whereas science develops out of reason, prudence is the outcome of experience and is to be understood as foresight in predicting consequences. Prudence on its own, however, cannot lead us away from the state of war towards a stable society. Instead, prudence appears to contribute to the intensification of the passions of glory and vainglory. Hobbes’s account of the passions clearly shows this connection. Both glory and vainglory are defined in relation to joy, which itself is the product of the “expectation, that proceeds from foresight of the end, or consequences of things,” a foresight that is developed through experience and thus identified with prudence. (L 43)

Consequently, a prudential consideration of our condition in the state of nature cannot lead to arriving at an agreement, but appears to maintain a condition of war.

This difference in position has led to one crucial change in the arguments offered concerning the state of nature. Whereas in *De Cive*, the argument for the condition of war is based on experience as Hobbes professes in the Preface, we find two arguments in *Leviathan* running in parallel. Hobbes begins with an argument from inference, where he arrives at conclusions based on the definitions he initially puts forward in his account of the human passions, which are thus grounded in the commitment to the geometric form. Hobbes, then, supplements his position with the same conclusion “confirmed by experience” through offering several examples indicating that a state of war would ensue in the absence of a civil state. (L 113-14) Given Hobbes’s claims about prudence, an argument from experience is not treated as sufficient and should be understood to serve

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as additional corroboration to the main argument arising out of a rational demonstration proceeding from the geometric method.\textsuperscript{126}

Now, if we are to attribute to Hobbes a consistent view, then we must recognize that experience cannot be fully relied upon. In fact, Hobbes argues that even the most experienced will not be able to predict the future with sufficient certainty, and prudence will often be a “fallacious” faculty. (L 15) Prudence is a capacity we share with animals and will only provide us with limited foresight. In contrast, reason allows us to discern the correct conclusions with certainty, for it is “the \textit{pace}, increase of \textit{science}, the \textit{way}; and the benefit of mankind; the \textit{end.”} (L 36-37) This reading of Hobbes, moreover, need not conflict with his argument in \textit{De Corpore}. For while experience may provide us with some insight concerning how we are to proceed in building a commonwealth, it still falls short from the certainty of reasoning through universals.\textsuperscript{127}

If experience cannot offer sufficient grounds for the political position Hobbes wants to put forward, and if the state of nature is not to be understood as a generalization based on experience, how should we understand it then? As we saw in chapter one,

\textsuperscript{126} In fact, in \textit{Behemoth}, Hobbes states that “for the government of a commonwealth, neither wit, nor prudence, nor diligence, is enough, without infallible rules and the true science of equity and justice.” (B 251)
\textsuperscript{127} My reading is consistent with the one provided by Gayne Nerney. Nerney argues that Hobbes maintains the possibility of putting forward a “popular” account of political philosophy based on experience, yet this can be reduced to the scientific view developed through the synthetic method starting from basic principles. However, whereas Nerney takes \textit{Leviathan} as an instance of providing a political view from experience, I take it that Hobbes clearly introduces an account that primarily proceeds geometrically and understands passions as motions on the body. Accordingly, the view in \textit{Leviathan} has to follow from Hobbes’s metaphysical view. Gayne Nerney, “Hobbes: The Twofold Grounding of Civil Philosophy,” \textit{History of Philosophy Quarterly} 2, no. 4 (1985): 395–409.
Rawls rejects a historical reading in favor of a hypothetical one. The straightforward dominant readings of the state of nature have attributed to it either a historical status or a hypothetical one. Whereas the historical reading has been widely discredited, most clearly with Hume’s critique of the “original contract”, the hypothetical interpretation still acquires some force. Under this view, Hobbes’s state of nature is a hypothetical state, or a thought experiment, that helps us recognize the kind of state and laws we would agree upon in order to end the condition of hypothetical war. Importantly, this reading does not suggest Hobbes is concerned with an ideal political theory, for he still bases his position on a realist understanding of humans, namely as beings disposed to war due to the operation of a complex network of passions. The non-ideality of Hobbes’s position constitutes a convergence with the view Foucault introduces as I will argue in chapter five.

Though there seems to be textual evidence for the hypothetical reading, Hobbes also wavers on the status of the state of nature between De Cive and the Latin and English editions of Leviathan. In De Cive, Hobbes offers examples to clarify his notion of the state of nature suggesting that it has been historically overcome by a number of states while others remain in a state of perpetual war. This gives credence to a problematic historical reading of the state of nature. (DC 12) On the other hand, the view espoused in Leviathan appears to be different and inconsistent between the two editions. The English edition of Leviathan published in 1651 suggests that the described state of war never existed, though we do have some examples that come close, while states contemporary to

\[128\] As I have indicated in chapter one, how we read Hobbes’s state of nature, whether hypothetical or historical is quite a contentious matter.
Hobbes’s time are always disposed to war. The Latin edition, on the other hand, responds to the question of the existence of the state of nature by putting forth the example of Cain and Abel as a clear ‘historical’ instance. This last example should strike the reader as strange, as it doesn’t clearly show Hobbes’s intent behind introducing a state of war. Yet, Helen Thornton provides an interesting reading and argues convincingly that the example of the state of nature Hobbes employs in the Latin edition has a rhetorical aim of convincing readers that fear of God on its own is insufficient for maintaining peace, and thus fear of a sovereign is also a requirement.129 This seems likely given the development of Hobbes’s gradual conviction in the significance and necessity of making use of rhetorical methods.130

But even if we take Hobbes’s view in the English edition of Leviathan to be the most consistent one, there are other problems that follow from a hypothetical understanding of the state of nature. These difficulties arise mainly from the normative consequences that Hobbes derives from the contract developing out of the state of nature. For instance, Ronald Dworkin shows that though hypothetical contracts offer good reasons for political obligation, they still cannot bind individuals, as they do not entail actual consent.131 This applies to Hobbes as well, for if we maintain Hobbes’s position that obligations can only arise out of one’s own acts, the contract itself cannot be merely hypothetical. As Jonathan Wolff argues, a “hypothetical contract is not strong enough to

show that every citizen has created his or her obligations by individual acts.”\textsuperscript{132}

In other words, for Hobbes’s view to entail a binding contract, the laws of nature must arise out of agreement, and cannot be justified either on strictly rational grounds or through utilitarian considerations.\textsuperscript{133} As Hume noted, a utilitarian justification of the laws of nature would render agreement superfluous, and thus a contract would no longer be necessary. The problem is even more complicated since Hobbes recognizes that if individuals do not agree to the contract, they may need to be forced to consent, rendering consent unnecessary. (L 162-63)

A similar problem arises if we justify the laws of nature rationally, for that would commit Hobbes to an ideal political theory that may not be practically pertinent. A proponent of this position might claim that though the contract has never actually occurred, its dictates should be binding because they are rational, for those are the conditions that would stave off the condition of war and ensure self-preservation. In other words, individuals \textit{would} agree to them if they found themselves in the state of nature. The parallel between such a view and the one Rawls introduces in \textit{A Theory of Justice} should be clear, where rational and reasonable individuals would agree to the principles


\textsuperscript{133} Both Dworkin and Wolff are concerned with the extent to which Hobbes’s view can be used to justify political obligation in the modern democratic sense. Hobbes, alternatively appears to be more concerned with finding a way to extinguish the effects of disagreement altogether. In \textit{Behemoth}, Hobbes maintains that the “mixed monarchy” resulting from sharing power between the King, the House of Commons and the House of Lords is problematic precisely because they cannot agree. Similarly, he argues that political disagreement leads to “disputation, breach of charity, disobedience, and at last rebellion.” For Hobbes, this justifies unifying power in a sovereign, where disagreement is entirely eliminated. (B 205, 228)
of justice under the hypothetical veil of ignorance. This argument shifts the focus away from how binding an agreement is, given that such an agreement is only hypothetical. The relevant question becomes to what extent would individuals be committed to rational dictates. Though this is a compelling line of argument, the problem is that Hobbes himself would not have approved of it, as he realized how often people behave irrationally. Hobbes, therefore, could not have adopted this argument for accepting natural laws. As Strauss notes, the account of the passions Hobbes introduced was for the purpose of presenting a political doctrine that would be applicable, beginning from a feature we all share, acting in accordance with passions. In fact, Skinner convincingly argues that Hobbes recognized the need to include rhetorical force in his later works, due to his conviction that most individuals will not behave rationally.

Accordingly, Wolff argues that maintaining some degree of consistency requires that Hobbes retains elements of both the historical and hypothetical readings. Whereas the historical reading guarantees that we actually do consent, and thus are bound to the natural laws, the hypothetical view acquires the advantage of convincing us of the rationality of accepting the contract. This view of the state of nature, however, conflates the question of legitimacy with that of the conditions of the formation of the state. For Wolff, Hobbes appears to give one answer to both questions, but the distinction requires questioning the validity of social contract theories in general to derive political conclusions.

Pettit offers a third alternative to both positions, arguing that the social contract

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serves the role of demonstrating what kind of characteristics we find in a commonwealth. In other words, Hobbes’s account shows us the nature of a commonwealth. Consequently, the main point is not to put forward an ethical imperative, which is what we get on the hypothetical reading, for the ethical claim follows as a result of putting our understanding of commonwealths into practice.\(^{137}\)

Pettit is certainly correct about accepting this interpretation, for Hobbes explicitly intends to put forward an account that clarifies the nature of a commonwealth through resolving it into its basic components. (DC xiv) However, under Pettit's reading, Hobbes is no longer concerned with whether his political theory can be applied or not, but rather is introducing an ideal account of the state. Thus, Petitt is unable to incorporate the type of political realism I have argued we find in Hobbes. Moreover, if Hobbes's view is to be reduced to a definition of the commonwealth, it becomes difficult to derive normative force from it. Pettit's view, moreover, does not clarify why it is that Hobbes uses the language of consent, or how we should understand agreement to the contract.

Pettit, however, is correct in shedding light on the analytic components of the commonwealth in Hobbes's account. If we are to take Hobbes's commitment to both the geometric method and nominalism seriously, we would have to recognize that the "state of nature" first, is a universal term that plays a role in Hobbes's view, and second, that it derives its meaning, not from the mental images to which it refers, but rather from the universal components that comprise it. As I argued, Hobbes takes his method to be necessary for introducing any science, for without starting with causal definitions, we cannot move towards rational knowledge. Consequently, the state of nature, as a

\(^{137}\) Pettit, *Made with Words*, 118.
universal, is a term used by reason for the purpose of advancing Hobbes's science of politics.

How, then, can we maintain simultaneously the two conditions that consent be actual and that it be rationally compelling? I suggest that we can understand Hobbes's position as both historical and hypothetical. To say that the state of nature is instantiated historically is to contend that approximations of the condition of war Hobbes described have been present. Given Hobbes's definition of war in *Leviathan* as an "inclination" to violence rather than an actual condition of battle, it is easy to find historical analogues for it. In fact, *Behemoth* offers a clear illustration of a particular case of the state of nature in England. Hobbes offers an analysis of how the civil war came to be as a result of the passions of ambition, pride, and glory. (B 192-93, 230, 275) This state finally developed into a condition of war similar to the one Hobbes had already characterized in *Leviathan*, where "though it were a war before, yet there was no blood shed; they shot at one another nothing but paper." (B 298) The historical reading can then be complemented, following Pettit, with reading Hobbes as offering an account of what a (hypothetical) commonwealth entails. This involves putting forward the rational requirements for moving beyond the state of war.\(^\text{138}\)

Of course, arguing that the state of nature is historically instantiated raises the

\(^{138}\) Hobbes attempts to categorically deny that a transition towards the state could result from inclinations towards peace. It is noteworthy that in the absence of some of the conditions that Hobbes specifies (i.e. scarcity which leads to competition, diffidence, or seeking glory) a state of war may not ensue. Hobbes would maintain, however, that when the conditions for conflict are present, a state of war would result between passionate individuals. Given Hobbes’s broad conception of a state of war, this war need not be actual battling, but may be reducible to mere strategic battles. Whether there are historical counter-examples to Hobbes’s view remains an open question.
question of how we should understand agreement in relation to historical events. Hobbes’s use of the language of consent remains puzzling as he does not seem to consider actual consent to be of much value given that he has a very broad conception of what it entails. For example, in addition to sovereignty by institution and the obvious role consent plays in its formation, Hobbes claims that sovereignty by acquisition or conquest is also a legitimate form of government and, more crucially, that it follows from consent as well. Just as fear of death does not render consent void in the case of sovereignty by institution, consent arising out of fear of death arising from conquest is likewise legitimate. (L 126-27, 185) Hobbes justifies this broad conception of consent by deriving it from a more basic mechanistic view of how we act voluntarily. Voluntary action for Hobbes is “that which proceedeth from the will, and no other,” where the will is simply considered to be the “last appetite or aversion immediately adhering to the action, or to the omission thereof.” (L 48) Hobbes concludes that actions resulting from pride and ambition as well as those that arise from fear are all voluntary. (L 49) These voluntary acts, which are the product of appetite or aversion, are the precondition for renouncing or transferring right in sovereignty by institution. (L 119-20) Similarly, in the case of acquisition, voluntary acts motivated by fear also leads to transferring right to the sovereign. Ultimately, the notion of consent with which Dworkin and Wolff are concerned is indistinguishable for Hobbes from the act of transferring one’s rights due to conquest.\[^{139}\] Consequently, Hobbes argues that “it is not therefore the victory, that giveth

\[^{139}\] For Hobbes, the means used to guarantee that the conquered consent are irrelevant, as long as they do consent. There is no reason to maintain the conclusions Hobbes accepts regarding absolute sovereignty or the means by which consent is derived. As Pettit notes, Hobbes makes an assumption he does not argue for, namely that people will not be
the right of dominion over the vanquished, but his own covenant.” (L 189)

There are several reasons why Hobbes may resort to agreement as a precondition for the appearance of political power. It is, first, important to recognize that Hobbes took himself to be resolving a metaphysical problem of deriving political power from the power of citizens. Hobbes attempted to bridge the gap between physical power (potentia) and juridical power (potestas) and thus to reduce one to the other. Hobbes’s answer as to how the power of the multitude could be transferred to the sovereign was to invoke consent as the condition for the transfer of power and relinquishing freedom. As Skinner notes, Hobbes was concerned with putting forward an account of sovereignty that does not reduce subjects to slaves. Accordingly, we can only give away our liberty by an act of our own, or by consent, though this only requires a conception of freedom as the absence of physical impediments. This significantly weakens Hobbes’s view of what agreement entails, as is most clearly exemplified by sovereignty that is the product of conquest. Whether we truly consent to abide by the laws of the state out of reflection, or because we have been conquered, our consent is equally binding. For Hobbes, it is ultimately due to the fear of death that we consent in both cases. Yet, whether our consent is obtained under conditions of conquest or within the state of war in a state of nature, the outcome is the same.

But there are also other rhetorical purposes for being committed to the entire

satisfied with the recognition of equality and will only be satisfied with a recognition of superiority. This weakens the conclusion Hobbes derives that the sovereign must retain absolute power. Pettit, Made with Words, 96.

140 Strauss, Natural Right and History, 164.

contractual discourse. As Joanne Wright argues, Hobbes engaged the discourse of origins that was present around his time. In its many forms, whether that of the original contract of the Levellers, those tracing back legitimacy to an ancient constitution, or identifying the legitimacy of monarchy in its divine origin, the discourse of origins identified legitimacy with a Golden Age that either must be retrieved, or gives us the conditions for what counts as legitimate power. In another instance of transforming common notions, Hobbes adopts this discourse of origins, without endorsing the elevated status it gives to the origin. In fact, the historical origin in Hobbes’s story is that of war, one that must be overcome if we are to attain a commodious living.¹⁴² This position allows us to draw a link with the argument Foucault presents in *Society Must be Defended*. In chapter two, I maintained that Foucault’s notion of power modeled on war responds to attempts to locate the origin of the state in contract. Foucault, therefore, sets aside the question of origins and develops instead an analysis of how political power functions. But under this reading, Hobbes’s use of consent does not attempt to identify legitimacy with the origin of the state in the state of nature, but rather moves away from such destructive origins towards a more constructive understanding of how political power can be conceived within the confines of a state. This political origin, for Hobbes then, does not introduce a normative ideal which we should aspire to reach.

Finally, this broad understanding of consent as legitimizing rule is not unique to Hobbes. In fact, we already see it early on with the French Jurist Étienne de La Boétie. La Boétie had argued that oppression can only succeed due to the inactivity of citizens. The

fact that citizens do not resist, which for La Boétie should take a nonviolent form, explains how the ruler maintains power. Consequently, being actively involved in opposing the dictatorship is a requirement for throwing off the shackles of voluntary servitude.\textsuperscript{143} We find a similar argument in Hobbes, but one that is incorporated into his view of legitimacy. Whereas La Boétie aimed at shedding light on a precondition for moving beyond totalitarianism, Hobbes argues that the lack of opposition not only allows the persistence of the current rule, but also bestows legitimacy upon it. The absence of consent, therefore, can only be identified with an active rejection of the terms of the agreement.

Conclusions

I have argued in this chapter that Hobbes’s politics is best understood as one that emerges out of his metaphysical materialism. Following my argument in chapter two, this material understanding of politics, renders his position compatible with the one Foucault puts forward. Whereas Foucault introduces a political analysis that begins by recognizing the inequality inherent in political relations, Hobbes’s starting point is the condition of equality he finds in the state of nature from which he derives an argument for a state of war. Under this reading, whereas Foucault can provide an analysis of how subjectivity is constituted as a result of the material operation of power coupled with claims to knowledge, Hobbes is able to offer promising normative conclusions that follow from the desire to avoid death.

I’ve maintained that understanding Hobbes’s politics materially requires that we

recognize the centrality of the method he uses. I have argued that Hobbes can maintain the superiority of his position over others only if we emphasize his version of the geometric method. This would first allow us to reject all skeptical readings of Hobbes and shed light on his commitment to metaphysical realism. More importantly, it shows that his political view is not only grounded in his materialism, but also in the method he employs to develop his conclusions. The implications of this reading is that we can now understand what Hobbes took the state of nature to be, namely a universal construct that is subjected to the operations of reason to introduce a science of politics. Yet, this allows Hobbes to maintain a consistent reading throughout all different works, for nothing precludes the historical existence of the state of nature as a state of war, while providing force through offering a rational justification for moving beyond it. Hobbes simultaneously can maintain that agreement itself can be historical, for contract arises from a minimalist sense of freedom, that of the absence of physical impediments.

The material compatibility between the views of Foucault and Hobbes raises two further questions. First, as I’ve argued in chapter two, Foucault emphasizes the positivity of his conception of power by contrasting it to the juridical function of prohibition he argues we find in Hobbes. This requires that I offer a coherent view of how power functions in Hobbes in order to clearly determine the limits of the compatibility of the two views. Second, as I’ve maintained in the previous chapter, Foucault does not offer a metaphysical position, but is rather more concerned with putting forward an empirical account. This is primarily the product of his rejection of pre-Kantian dogmatism. If Hobbes, in contrast, gives us a political account that is derived from metaphysics, then rendering the two positions consistent requires that we reconcile, at least partly, these
conflicting conclusions. The next chapter, therefore, will focus on these two problems.
Chapter Four

Reconciling Power in Foucault and Hobbes

In chapter two I argued that the reversals Foucault introduces against contractarianism with respect to justifying natural rights aim primarily at specifying underlying material conditions and identifying their political effects. Chapter three intended to show that such a materialist ground for politics is already present in Hobbes. Yet, the question of the role of political power in Hobbes, whether it can be understood as merely prohibitory or productive of subjects, remains unsettled. This chapter, therefore, will be concerned, first, with looking at the role of political power in Hobbes and arguing that such power cannot be limited to the negative function of prohibition. I argue that Hobbes introduces various “techniques,” to use Foucault’s terms, to shape subjects, and thus recognizes a more positive role for power that is not limited to prohibition. Though this mitigates Foucault’s objections against Hobbes, I argue that Foucault offers the means to transform the Hobbesian project from one that is grounded in metaphysics to a view that rejects metaphysical dependencies in a post-Kantian sense. Following Kant, disposing metaphysical dependencies will follow from defining conditions that make knowledge possible. This reading of Foucault emerges primarily from focusing on his empirical method coupled with the justifications that can be offered for his historical nominalism. I thus argue that by taking Kant’s critique of metaphysics as a basis, we can justify Foucault’s historical method on Kantian grounds by recognizing that it deals with the question of conditions of possibility. Though this raises the issue of whether we can incorporate the notion of the historical a priori Foucault employs in his archaeological work into a Kantian framework, I will be setting aside Foucault’s early work and will
focus mainly on his genealogical method. Foucault, consequently, offers a post-Kantian account of politics that does not rely on a metaphysical basis. Finally, I argue that the operation of political power in Hobbes and Foucault is compatible. This is why we can retain Hobbes’s analysis of the passions, especially when it comes to cultivating virtues in individuals, while justifying it historically rather than metaphysically.

**Hobbes and Positive Power**

In chapter two, I argued that Foucault’s reversals can be seen as compatible with Hobbes’s view on the condition that we read Hobbes’s politics as materially grounded. Foucault had argued that Hobbes offers a conception of legitimacy that is derived from transforming capacities into unified power possessed by a sovereign, which produces a political relation between ruler and subjects who retain certain natural rights. By reversing these assumptions, Foucault offers a conception of power that rests on a material analysis of unequal relations. I argued that, ultimately, the key difference between the view Hobbes endorses and the conception of power that Foucault analyzes rests on whether we take equality as our starting point. Hobbes’s analysis results from beginning from a condition of equality in the state of nature, whereas Foucault recognizes that a political relation arises out of situations of inequality, which inherently entail power relations. Yet, even if we accept a material reading of Hobbes as I’ve argued, it is crucial to consider Hobbes’s conception of power in order to render the two views compatible. Foucault had argued that the mode of operation of power he locates starting with *Discipline and Punish* is one that is not juridical in nature, is not possessed by a sovereign, and does not invoke a strictly prohibitory function. The question that follows is whether we find in Hobbes a view that is amenable to such power operations. I shall
argue in this section that we do, by shedding light on how power functions under Hobbes’s view while focusing on the cultivation of virtues and the role of education, both of which target the passions.

Grounding Hobbes’s politics materially leads to two consequences. On the one hand, this renders his view compatible with that of Foucault. On the other hand, this allows us to understand the operation of political power in Hobbes’s account as one that is not simply embodied in law, but also targets the bodies of individuals for the sake of achieving political effects. Yet, offering a material ground for Hobbes’s politics does not automatically render Foucault’s argument for the juridical mode of power in Hobbes superfluous. In fact, on the surface, Foucault appears justified in his reading given that Hobbes’s works are replete with passages identifying political power with the operation of prohibitory law.

The negative functioning of power comes to the foreground forcefully with the role Hobbes ascribes to the sovereign to ensure that civil laws are followed. Throughout *Leviathan*, Hobbes repeatedly emphasizes that the primary function of the sovereign in relation to citizens is “to keep them all in awe.” (L 113) Ultimately, one cannot rely on individuals taking pride in abiding by the laws, and thus the “passion to be reckoned upon, is fear.”(L 129) This fear must be the result of “so much power … that by terror thereof, he is enabled to conform the wills of them all, to peace at home, and mutual aid against their enemies abroad.”(L 158) Striking fear in the citizens of the commonwealth in order to ensure that they abide by the laws of the contract appears to further corroborate the view that Hobbes’s conception of power can be limited to negative operation. If fear is to guarantee that laws continue to function in society, it is only under
the threat of the exercise of violence that citizens come to abide by the laws of the commonwealth.

But if the commonwealth will be governed by invoking fear and threatening violence, perhaps the operation of positive power can be located within the subjects themselves. Yet Hobbes does not introduce a positive notion of freedom that results from binding oneself to the contract. Though in *Leviathan*, Hobbes maintains that submission to a sovereign through authorization results in both obligation *and* liberty, such submission should only be recognized as an expression of voluntary action and not a precondition for it. (L 203) In effect, liberty for Hobbes is defined merely in terms of what “proceed[s] from [the] will,” a view that is consistent with necessity. (L 197-98) As Skinner notes, Hobbes’s definition of liberty in *Leviathan* serves the purpose of exposing the strictly rhetorical force of the Republican demand for liberty. Through defining liberty negatively, Hobbes is able to maintain his commitment to a materially deterministic view, while arguing for the presence of liberty all along. Monarchies, just as democracies, arise out of a contract that is freely accepted by individuals.144 Moreover, citizens under the rule of a sovereign are just as free as ones that take part in democratic rule.145

I argue that the key, however, to identifying *positive* power effects in the Hobbesian framework can be located in Hobbes’s view of the passions. Ultimately, this will relate to Hobbes’s recognition that the political problem is not simply about accounting for the

144 There are several references in *Leviathan* identifying the justification of monarchy with that of democracy, one of which appears during Hobbes’s discussion of the rights of the sovereign. Hobbes states, “[t]hat men see not the reason to be alike in a monarchy, and in a popular government, proceedeth from the ambition of some, that are kinder to the government of an assembly, whereof they may hope to participate, than of monarchy, which they despair to enjoy.” (L 162)

right of the sovereign, but also must recognize the presence of political allegiances. For strategic purpose, this requires that political power be expressed through means that do not only strike fear, but invoke a broader array of passions. Sandra Field argues that Hobbes’s project undergoes a shift between his earlier political works and *Leviathan*. In *De Cive* and the *Elements of Law*, Hobbes primarily attempts to theoretically account for the absolute power of the sovereign, yet, this view does not clearly carry over to *Leviathan*. As Field argues, we find in *Leviathan* a different account of power that focuses on an intersubjective element absent in *De Cive* and *The Elements of Law*. Field maintains that Hobbes’s concern in *Leviathan* is not simply the question of how we can account for the entitlement of the sovereign, but also how the sovereign can bring it about that obedience will ensue. Field maintains that, whereas in Hobbes’s earlier work we find an identification of *potentia* and *potestas*, or the effective power of the sovereign and that to which the sovereign is entitled, the two are divorced in *Leviathan*. Instead, *Leviathan* is concerned with offering not only an account of entitlement (*potestas*), but also of how to effectively materialize such an entitlement.\(^{146}\)

Ultimately, for Field, accounting for how it is that sovereign power can be effective must begin by reconceiving power as something that arises essentially from social interaction, rather than reducing it to capacity. According to Field, we find in Hobbes’s earlier work a view of power that reduces it to natural faculties, where power is identified with the excess resulting from opposing one’s capacities to another’s.\(^ {147}\) In contrast, in *Leviathan*, power is linked to how one is perceived by others, especially when it comes to


\(^ {147}\) Field, “Hobbes and the Question of Power,” 64.
honor and allegiance. Field maintains that emphasizing the intersubjective aspect of power allows Hobbes to consider how it is that political allegiance may be derived in the absence of actual capacities once social recognition is bestowed. Rather than merely explaining from a theoretical point of view why it is that the sovereign is entitled to absolute power, Hobbes attempts to respond to the question of how such power can be materialized when allegiance often follows from social recognition that does not accurately represent the capacities of individuals. In *Leviathan*, however, this social representation is itself a source of power, which cannot be simply dismissed on the basis of its inaccuracy.

Field argues that Hobbes, therefore, replaces the individualistic understanding he had put forward in *De Cive* with one that recognizes the prevalence of associations that have short-term or mid-range aims. These fall short of the stability to which Hobbes aspires in his view of sovereignty, but they also constitute a problem for the sovereign, which must be constantly negotiated even in a commonwealth.

I maintain that Field’s analysis of the transformation of the role of power in Hobbes is correct, though, as I will show, it overemphasizes the role of inequality. Nonetheless, accepting the conclusions Field draws has to follow from clarifying the role Hobbes ascribes to vanity in *Leviathan*. When distinguishing between glory and vainglory, Hobbes defines vainglory as glory that is “grounded on the flattery of others; or only supposed by himself.” Hobbes continues to add that whereas glory which is based on “well grounded confidence begetteth attempt, … the supposing of power does not, and is therefore rightly called vain.” (L 45) Maintaining that vainglory qualifies as only

\[\text{148 Field, “Hobbes and the Question of Power,” 74-75.}\]
imagined power can be supplemented with Hobbes’s assertion that glory and not vainglory, along with competition and diffidence, leads to conflict. This raises a problem for interpreting power as intersubjective. If Field is right, then one’s imagined power resulting from the “flattery of others” should count as power, and therefore should be linked to conflict. Yet, while accounting for the seventh law of nature concerning revenge, Hobbes maintains that punishment should be forward-looking given that revenge without considering consequences is “triumph, or glorying, in the hurt of another, tend[s] to no end … and glorying to no end, is vain-glory, and contrary to reason, and to hurt without reason, tendeth to the introduction of war.” (L 140) When is it then that vainglory indeed counts as power and leads to conflict? Julie Cooper introduces a distinction between vainglory that results from one’s own inflated image of self, which does not “begetteth attempt” and thus does not lead to conflict, and vainglory that results from the flattery of others. The latter appears to result in conflict, given that it may lead one to act in accordance with the inflated power that others have conferred. When vanity, then, results from one’s view of self, it does not lead to conflict and cannot be regarded as power. However, when it is the outcome of the views of others, especially when it is coupled with allegiance, then vainglory should be regarded as a source of power.

But if we accept Field’s argument, this leads to another problem arising with the precondition of equality Hobbes specifies. Field argues that the social ontology Hobbes introduces in *Leviathan* emphasizes inequality given that conflict arises between

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associations linked together through the allegiance arising from wrongly attributing glory to individuals. Though equality may reside at the level of individuals, associations are bound to lead to inequalities.\textsuperscript{150} To maintain, as Field does, that this leads to the salience of inequality, however, is mistaken. Just as any natural inequalities between individuals can be remedied by forming associations, inequalities between associations can be remedied by expanding weaker associations further. The condition of equality in the analysis of sovereignty by acquisition is essential for maintaining the condition of war. After all, Hobbes recognizes that a condition of inequality will lead to the end of the state of war, since if one side is superior to others, this will lead to conquest and establishing sovereignty by acquisition.\textsuperscript{151}

Field’s analysis of the intersubjective role of power along with the problem of obedience that arises in \textit{Leviathan} brings to the forefront the question of the strategic means by which Hobbes thought obedience could be brought about. Hobbes recognizes that resolving this problem will involve a role for political power that is not simply juridical but takes as its object the passions of individuals. This requires first, however, that a meticulous view of the passions be developed. For Hobbes, the operation of the

\textsuperscript{150} Field, “Hobbes and the Question of Power,” 77-78.
\textsuperscript{151} Kinch Hoekstra shows Hobbes’s recognition of natural inequality in the state of nature by shedding light on Hobbes’s commitment to significant differences in the passions, experience, and bodily strength of individuals. For Hoekstra, Hobbes insists on equality primarily because recognizing oneself as naturally superior may be a cause of conflict, given our tendency to vainglory and pride. This is consistent with my argument in chapter three, as I’ve maintained that the condition of equality arises out of our equal beliefs in our capacities rather than as a result of actual equality of capacities. Kinch Hoekstra, “Hobbesian Equality,” in \textit{Hobbes Today: Insights for the 21st Century}, ed. S. A. Lloyd (Cambridge: Cambridge University Press, 2014), 81–82, 104-06.
passions is ultimately grounded in self-preservation. It is because we have a drive to preserve ourselves that we constitute the commonwealth. The drive for self-preservation, however, is justified by appealing to a strictly mechanical principle that of conatus or endeavor. Juhani Pietarinen argues that understanding the link between conatus and self-preservation must follow from recognizing the role of conatus in matter generally. Pietarinen maintains that Hobbes subscribes to what he terms the “conatus-principle,” which mainly indicates that “every thing endeavors to preserve its own existence as far as it can by its own power.” For Pietarinen, Hobbes uses this principle to explain pressure, or tendency to motion, by maintaining that such tendency is in fact the very beginning of motion or conatus. This explains why objects preserve their state. Pietarinen argues that Hobbes’s view with respect to self-preservation in human beings is similar. Given that we are merely material entities reacting to motion, we also endeavor to preserve our existence. Identifying our existence with specific motions is justified by appealing to individuation for Hobbes. As Pietarinen maintains, given that Hobbes recognizes only matter as real, then individuation is best understood by our inclination to specific motions. Consequently, conatus not only specifies a principle by which we preserve a specific state, but also individuates entities by the particular inclinations to motion they possess – which for Hobbes is itself the beginnings of motion. Once this

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152 This is not to say that the passions always serve the purpose of self-preservation. Hobbes recognizes that both the passions and reason sometimes misfire, for we don’t always act in ways that are conducive for our survival.
153 In De Corpore, Hobbes defines conatus as “Motion made in less space and time than can be given ... that is, motion made through the length of a point, and in an instant or point in time.” (DCo 206).
conatus is transformed, objects cease to be what they are.\textsuperscript{155}

Understanding conatus as linked to preserving one’s state emphasizes the role of
Hobbes’s rich analysis of the passions in \textit{Leviathan}, which was missing from \textit{De Cive}.
Following Field’s argument, Hobbes was more concerned with developing an account of
how we can apply his view of sovereignty in \textit{Leviathan}, and he recognizes that
cultivating specific virtues by modifying the passions will result in obedience and in
behavior conducive for peace. Brian Stoffel shows how Hobbes invokes conatus to
explain character dispositions as well. According to Stoffel, the distinction between
animate and inanimate dispositions is irrelevant for Hobbes. In both cases, Hobbes
appeals to conatus in order to explain how a material entity can be disposed to a specific
action. This applies to internal motions in the body, motions in the brain, and finally
character dispositions.\textsuperscript{156} It follows that acting on the passions of individuals will take the
form of instilling specific virtues, modeled on a conative understanding, which is one
positive effect of political power.

The account of the passions, therefore, does not simply play a role in explaining how
it is that the commonwealth is instituted but is useful to uncover the means by which we
can maintain stability in society. To illustrate this, we can turn to the role Hobbes assigns
to education as a requirement to arrive at the “safety of the people,” which in a
commonwealth goes beyond mere preservation to also include a commodious living. (L
322) The role of education in maintaining stability is arguably one instance of the

\textsuperscript{155} Pietarinen, “Conatus as Active Power in Hobbes,” 78-79.
positive expression of power, as it serves to produce efficient rule-abiding individuals.

But, even in his account of education, Hobbes appears to maintain that the dictates cultivated in citizens are ones primarily aimed at limiting activity, and thus at prohibition. For instance, Hobbes argues that making the justifications of rights available to the people is required in order to subdue them and limit resistance against the sovereign. (L 323) Subjects are, therefore, instructed to limit their activities to the dictates of civil laws. They are instructed, moreover, not to desire a different form of government, nor to admire other citizens in the commonwealth for fear that it might overshadow the sovereign, in addition to not disputing the sovereign’s decisions.  

Yet, the role Hobbes specifies for both the laws and education acquire further significance if they are understood in relation to the passions and Hobbes’s conative view of humans. Beginning with law, Hobbes maintains that the application of laws serves the purpose not of “bind[ing] the people from all voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves by their own impetuous desires, rashness or indiscretion; as hedges are set, not to stop travellers, but to keep them in their way.” (L 335) The guiding feature of law is emphasized with Hobbes’s discussion of reward and punishment, as the law functions as means to secure the subjects’ commitments to the civil law. The positive operation of power is revealed in punishment, for instance, that is not carried out for the purpose of revenge, or as a mere manifestation of strength (as Foucault characterizes juridical power). Nor does it need to involve a spectacle of violence that displays the sovereign’s authority. Punishment serves the purpose of

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157 In Behemoth, Hobbes argues that one main reason for the civil war can be attributed to reading Roman law and ancient law, which unsettled citizen conviction in the monarchy. (B 192-93)
correction, and though it may not correct the perpetrator’s behavior, it corrects and deters the behavior of others. Similarly, rewards also aim at motivating citizens to follow the civil laws. Only the sovereign, according to Hobbes, can offer rewards and punish subjects, for such practices must issue from the highest position of power in the commonwealth. (L 337-38)

How does Hobbes envisage the effect of these practices on the passions? Hobbes aims at developing within citizens certain “disposition[s]” to replace those that incline towards injustice. (L 136) As Johnston maintains, Hobbes’s project in *Leviathan* recognizes that instituting the commonwealth will depend on the triumph of reason over superstition and knowledge over ignorance. This necessitated introducing a “fundamental change in the habits of thought and action,” leading Hobbes to engage in theological argumentation in order to attack superstition in Christian theology. *Leviathan*, therefore, in addition to following a scientific approach, also includes a rhetorical element that attempts to compel individuals of the value of following such a scientific approach in politics.158 Johnston, however, appears to somewhat overemphasize the role of reason in Hobbes’s approach. Certainly, Hobbes is introducing a rational account in *Leviathan*, and the rhetorical element present in the work does serve the purpose of compelling individuals of his account. Nonetheless, Hobbes also seems to recognize that not all human beings will recognize the value of rationality, even if it is embellished rhetorically.

In fact, Hobbes maintains that the target of these tactics will primarily not be reason,

but the passions. This becomes clear in Hobbes’s emphasis on education. In *De Cive*, Hobbes had already recognized the role of education while contrasting his position with that of Aristotle. We are not naturally social animals, but we become social beings by training and discipline. Hobbes stresses that civil societies are not “mere gatherings” but “alliances” which require “good faith.” (DC 2n) This requires introducing transformations in citizens in order to render them fit for society. Yet this transformation cannot be simply through rendering individuals more rational, as Johnston argues, but lies primarily in changing the objects of the passions. In *Leviathan*, Hobbes claims that individuals have different passions due to two factors: material constitution and education. (L 61) In the Introduction, Hobbes had already specified more clearly the role of education. It is not to render people rational, but rather to change the objects of their passions. Hobbes states, “I say the similitude of *passions*, which are the same in all men, *desire, fear, hope, &c;* not the similitude of the *objects* of the passions, which are the things *desired, feared, hoped, &c;* for these the constitution individual, and particular education, do so vary.” (L xi) Whereas the kinds of passions we possess are determined by our material constitution, and more specifically by the motions that we are conatively inclined to undergo, the ends of our desires is determined by the kinds of motions our bodies undergo, which for Hobbes is primarily the product of our reactions to sensory experience. Primarily, as Gordon Hull argues, passions for Hobbes depend on the kinds of experiences we have, where our will is shaped by sensory input. Consequently, shaping the desires of citizens requires primarily modifying their experiences.159

Similar arguments are presented in the conclusion to *Leviathan*, where Hobbes contends that settling the difficulties resulting from differences between individuals requires proper education. Hobbes maintains that “education and discipline” allow for moving away from these differences in order to arrive at amicable relations with others in society. (L 702) Accordingly, the point is not to render people more rational so that they act in accordance with natural laws strictly out of a rational commitment. Though that might work with some individuals, it remains ineffective for others. Education, therefore, allows for channeling passions so that they are more conducive for peace rather than war.

Interestingly, then, whereas the argument from the state of nature appeals to the fear of violent death as an initial transition towards society, education plays a role in sustaining that transition through cultivating the necessary dispositions, or virtues, that allow us to become social beings. We find, therefore, two arguments in Hobbes. One that leads to society, and another to suggest different means to ensure that such a society becomes stable. Fear of the sovereign along with a negative view of power certainly play a role here, perhaps the main role, but Hobbes also retains elements of positive effects of power. On the one hand, education will require transforming the object of fear from that of violent death in the state of nature to fear of the sovereign, further supporting the negative role of power. Yet, stability in society according to Hobbes cannot be reducible to fear. As Hobbes states in *Leviathan*, the other passion that could induce subjects to keep their contracts, though unreliable, is glory. (L 128)

How then can education redirect our passions in order to render us beings more fit for

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160 This suggests that Rawls’s reading that Hobbes allots to fear from the sovereign only the role of stabilizing the scheme of the contract is incomplete.
society? One clear example can be found in the function allotted to glory in both war and peace. As Peg Birmingham argues, a main source of conflict in the state of nature is our natural and mutual desire for glory.\textsuperscript{161} Whereas this desire could clearly lead to conflict in the state of nature, it also is a main source of rational fear, that of violent death. The emphasis on the violent trait of death can only be justified by appealing to pride, for a violent death will ultimately be degrading and humiliating.\textsuperscript{162} For Birmingham, whereas security and self-preservation does play a role in the founding of the modern state, it is the modification of the objects of glory in the state that justifies the presence of the desire for self-sacrifice in the name of the nation in order to attain “glorious immortality.”\textsuperscript{163}

Whether we identify glory as the prime factor in the development of fear in Hobbes, as Birmingham argues, or as one major factor among many, it is clear that the passion of glory requires channeling in order to render it more conducive to peaceful living. Cooper argues that this is done in Hobbes primarily through stressing the virtues of modesty and humility. Hobbes, therefore, advocates the establishment of honorary titles in order to satiate the natural passion of glory present within us. In fact, laws of honor, rather than downplaying vanity, appeal to vanity through using reward and punishment in order to “redirect passions.”\textsuperscript{164} The values of modesty and humility, thus, serve the role of

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\textsuperscript{163} Birmingham, “Arendt and Hobbes,” 11.
\end{flushright}
“disciplin[ing] vainglory” for the sake of cultivating civic dispositions.\textsuperscript{165}

Cultivating certain dispositions in subjects in the commonwealth, then, appears to be one main role power takes once society is established. The effects of this positive exercise of power are twofold. On the one hand, subjects with civic virtues and a civic education are produced, ones that recognize that abiding by the law is necessary for sustaining society. Of course, not all citizens will be affected by this education, which is why Hobbes takes fear to be the most reliable passion. Yet, Hobbes maintains that individuals who will not benefit from education will look up to the educated ones in order to receive guidance in terms of abiding by the laws. (L 331) The benefits conferred by education will thus trickle down to all members of the commonwealth. Hobbes’s work itself, which is intended to all audiences in general given its rhetorical element, would thus be an instance of the trickling down of the dictates of reason.

On the other hand, given the metaphysical basis of his political account, Hobbes contends that the exercise of power through education and through channeling the passions in order to instill dispositions introduces a metaphysical entity. Hobbes maintains that this unity is achieved only through a unified representer, where every member of the multitude authorizes one sovereign to act on her behalf. (L 151) As Skinner notes, there cannot be any “natural unity” outside the state, where we are merely left with a multitude. The arrival at a unity, thus for Hobbes, must be artificial and is realized with the selection of a single representative.\textsuperscript{166} Independently of such unity, we


are left with a multitude, in the form of individuals or associations, which will easily slip into the war we find in the state of nature. This metaphysically real, and yet artificial, unity appears to be, in Hobbes’s work, one of the main expressions of positive power.

Arguing, as I have, that Hobbes makes room for positive power in his works does not show Foucault to be entirely mistaken in his reading. Hobbes does, in fact, focus on the negative functioning of power as essential for a society. Moreover, Foucault’s work, especially in *Discipline and Punish*, shows how the role allotted to the sovereign in Hobbes’s work becomes superfluous with the efficiency of power relations. Yet, I wish to argue that we can read the two views as consistent if we focus on the positive role of political power in Hobbes. Of course, one of the crucial differences between the two views is Hobbes’s reliance on metaphysics. The next section, therefore, engages Foucault’s Kantian aspect in the unpublished late seventies lectures in order to justify the distance Foucault places between his work and metaphysics. This requires, primarily, looking at the justification of method in Foucault.

**Foucault’s Kantian Method**

In 1984, Foucault began to characterize himself as a Kantian, which raised interpretational problems for several commentators who have attempted to put forward a coherent account of Foucault’s genealogical exposition in relation to Kant. Most

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167 Foucault’s argument in *Discipline and Punish* can be understood as holding that sovereignty becomes dispensable in the presence of such positive tactics that train and instill dispositions in individuals. Moreover, in chapter one I already highlighted Rawls’s claim that we could simply dispute Hobbes’s argument for an absolute sovereign on the basis of mere empirical grounds, given that stable communities do in fact exist without appealing to absolute sovereignty.

168 Locating his work within the Kantian tradition appears most clearly in the essay “What is Enlightenment?” as Foucault explicitly takes his project to involve a move that
prominently is Beatrice Han-Pile’s criticism, which has characterized Foucault’s work as alternating between the transcendental and the empirical without being able to reconcile the two. According to Han-Pile, Foucault introduces a “transcendental history” of specific forms of knowledge, which is void of a proper transcendental grounding for the historical empiricism to which he is committed. I argue in this section that we can understand Foucault’s work as empirically concerned with determining conditions of possibility that are historical and contingent rather than universal and necessary. This makes Foucaultian critique immanent and allows for recognizing Foucault’s methodological commitments as broadly Kantian.

Situating Foucault within the Kantian dichotomy of transcendental and empirical has thus far proven to be challenging. For instance, in *The Politics of Ourselves*, Amy Allen rightly argues that critique for Foucault must be understood as immanent. This is primarily the product of recognizing that Foucault does not eliminate the notion of the subject altogether, but merely eliminates the transcendental subject and thus institutes a critique of critique. On Allen’s reading, Foucault both endorses the Kantian project and seeks to develop it further by ridding it of the transcendental element. He thus transforms rather than rejects Kant’s project, by exposing the role of the historical and social in the constitution of subjectivity. This critique of critique is not only to be understood as a

Kant had initiated, which involves “a reflection on history and a particular analysis of the specific moment at which he is writing.” (WE 309) During the same year, Foucault wrote under the pen name Maurice Florence, “[i]f Foucault is indeed perfectly at home in the philosophical tradition it is within the critical tradition of Kant, and his undertaking could be called *A Critical History of Thought.*” Maurice Florence, “Foucault, Michel, 1926 –,” in *The Cambridge Companion to Foucault*, ed. Gary Gutting, trans. Catherine Porter (Cambridge: Cambridge University Press, 1994), 314.

critique of Kant, but also a critique in the Kantian sense, namely, one that specifies the “conditions and limits of possibility of that which Kant himself took as his own starting point, namely the transcendental subject.” For Allen, however, Foucaultian critique remains partly transcendental, as it is concerned with specifying necessary conditions of possibility for the thinking subject. Though the conditions themselves are historical and contingent, their actualization is necessary to render forms of subjectivity possible. According to Allen, therefore, these are necessary though not sufficient conditions. Yet this does not qualify to be a fully transcendental critique, as it is rooted in contingent historical processes rather than in necessary conditions.  

I hold that labeling the conditions of possibility Foucault identifies as necessary is problematic for two reasons. First, on textual grounds, Foucault repeatedly and explicitly rejects the introduction of necessary conditions, and consequently transcendental conditions. Moreover, conditions of possibility need not be thought of as necessary conditions. For instance, the conditions for the emergence of sexuality as a field where disciplinary and biopolitical mechanisms intersect have made sexuality possible, but

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172 One instance of Foucault’s rejection of transcendental conditions appears in “What is Enlightenment?” (WE 315-16). In addition, in a 1982 interview titled “Space, Knowledge, and Power,” Foucault specifies Habermas’s position in terms of “mak[ing] a transcendental mode of thought spring forth against any historicism,” in contrast to Foucault’s own position which is “far more historical and Nietzschean.” (SKP 359) Opposing his historical approach to a transcendental one also appears in a 1978 interview, where Foucault aligns his work with that of Nietzsche, Bataille, and Blanchot in their projects of desubjectivation which involves “wrenching the subject from itself” as opposed to the phenomenological tradition which locates a transcendental subject and assigns to it the role of constituting experience. Michel Foucault, “Interview with Michel Foucault,” in *Power: Essential Works of Foucault, 1954-1984, Volume III*, ed. James D. Faubion, trans. Robert Hurley (New York: The New Press, 2001), 241.
different historical conditions may have also produced the same form of subjectivity. Allen recognizes the contingency of the appearance of these conditions, but takes them to be necessary for the specific problematization at hand. Yet given Foucault’s continuous attempt to recast necessity in terms of contingency, this ascribes to Foucault a position from which he often distances himself. The appearance of a discursive framework can make a domain possible, but by no means is it the only framework that could produce the domain. Consequently, Foucault recognizes that though sexuality may arise out of different historical conditions, it may still fulfill similar social roles. Thus, the conditions of possibility to which Foucault is committed cannot be understood as necessary but should be recognized as sufficient.  

Colin Koopman, alternatively, argues that whereas the phenomenological tradition attempted to reconcile Kant’s transcendental philosophy with a historical inquiry, Foucault disposes of the transcendental altogether. Foucault thus incorporates into his work Kant’s notion of critique, where critique is not concerned with universal or necessary conditions, but with historical conditions, rendering his critique immanent. Koopman accepts Johanna Oksala’s reading of Foucault as refusing to begin with a cogito or subject and locates instead the core of Foucault’s critique in problematization. Problematization becomes “a stable conceptual matrix” that allows for shedding light on the “emergence of hybrid networks of problems we can come to recognize … as

173 The necessity of those conditions can be questioned merely on the basis of the empirical nature of Foucault’s work as I will be arguing in the next section.
175 Koopman, “Historical Critique or Transcendental Critique in Foucault,” 108.
contingent complexes rather than necessary givens.” Koopman thus introduces a distinction between “critical conditions of possibility,” which are neither universal nor necessary, and “transcendental conditions of possibility.” On Koopman’s account, the former are what Foucault endorses through his local genealogical analysis. These conditions define the “limits” of knowledge under a specific historical period.

Koopman presents an interesting link to Kant, yet as Colin McQuillan argues, this reading of Foucault’s work casts doubt on the Kantian aspect of Foucault’s critique. To begin with, McQuillan points out that Kant took all critique to be transcendental. This raises the question of whether we can maintain any form of Kantian critique once we dispose of the universal scope and necessary modality of the conditions Foucault specifies. More importantly, McQuillan identifies a significant difference between the Kantian and Foucaultian projects. Whereas Kant was interested in defining the limits of reason and thus confining its legitimate use to ward off dogmatism, Foucault is explicitly concerned with transgression, or with “crossing over.” Kant had argued that reason must renounce exceeding its own limits, while Foucault’s main aim is to undo those limits by unmasking them as neither universal nor necessary, but contingent and thus subject to change.

We are, thus, left with the problem of reading Foucault as rejecting transcendental

176 Koopman, “Historical Critique or Transcendental Critique in Foucault,” 110.
177 Koopman, “Historical Critique or Transcendental Critique in Foucault,” 115.
philosophy while maintaining a Kantian element to his critique. In order to account for this position, Christina Hendricks offers an interesting interpretation of Foucault’s reading of Kant in *The Government of Self and Others*. In those lectures, Foucault notes that we find two threads that develop out of Kant. The first is concerned with the “analytic of truth,” a transcendental approach that raises the question of the conditions of possibility of true knowledge. The second pertains to what Foucault terms an “ontology of the present” or an “ontology of ourselves” stemming from Kant’s commitments in his two essays “What is Enlightenment?” and “What is Revolution?” For Hendricks, whereas an analytics of truth is concerned with limits, an ontology of ourselves opens the space for transgression. On this view, Foucault identifies in Kant’s “What is Enlightenment?” essay a legitimate move towards crossing limits through raising the question of the present.¹⁷⁹

Under Foucault’s reading, having determined the limits of reason in the first *Critique*, Kant introduces a normative demand of daring to liberate oneself from the condition of nonage.¹⁸⁰ Hendricks reads in Foucault’s Kant the identification of contingent limits pertaining to a contemporary problem.¹⁸¹ Kant, thus, was concerned with identifying the status of the stifling of the free use of reason in Prussia, and as a result of recognizing it as a contingent limit, urges for transforming it. Kant’s approach comes through critique and argument, by primarily introducing the distinction between the public and private use

¹⁸¹ Hendricks, “Foucault’s Kantian Critique,” 362.
of reason, and thus marking separate uses of reason, which renders obedience and autonomous rational thinking compatible.

For Hendricks, this is a mark of the attitude of modernity that Foucault identifies in his essay on the Enlightenment, where the critic locates something in the present and attempts to transform it. The critic does not stand outside of it in a historically neutral position. In a similar manner, through aligning himself with Kant’s project, Foucault does not assume a metahistorical perspective that gives him access to an objective view of history, but locates himself in a present moment, and initiates transformations from within. This sheds light on the advantage that Foucault’s analysis provides with respect to critique. Given the conclusions of Foucault’s methodological commitments in terms of how we understand history, critique must follow from within a specific historical power-knowledge regime. It is in this sense that Foucault’s critique can be understood as immanent rather than transcendental. Historical analysis becomes a tool for transgression by locating historically contingent limits that have been considered to be self-evident, universal, and necessary limits. But this could only follow from aligning oneself with a historical tradition, one that allows for historicizing the present. Consequently, whereas Foucault does not specify the direction which critique should take, he provides the theoretical means to effect transformations on present conditions.

Foucault’s relation to Kant opens up the space for the broader question of the method he endorses in his work pertaining to the genealogy of governmentality. Whether Foucault has been consistent in method throughout his work is questionable, but it is crucial to note that apparent inconsistencies can be traced to changes in his view that

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182 Hendricks, “Foucault’s Kantian Critique,” 364.
ultimately rest on empirical grounds. I will not be concerned here with putting forward a coherent reading of method across all of Foucault’s work. Though the question of “conditions of possibility” is abundant in Foucault’s archaeologies, rendering that work consistent with a genealogical approach is not straightforward and raises problems that I will set aside for my purposes. This includes, but is not limited to, Foucault’s early commitment to the historical a priori in his archaeologies.\textsuperscript{183} It is crucial, however, to note that Foucault retains the question of the conditions of possibility in his genealogical work. This is most explicitly specified in his 1978-1979 lectures \textit{The Birth of Biopolitics}, where Foucault maintains that “critique would consist in determining under what conditions and with what effects a veridiction is exercised.” Foucault continues to state, “the problem is to bring to light the \textit{conditions} that had to be met for it to be \textit{possible} to hold a discourse on madness … that can be true or false according to the rules of medicine, say, or of confession, psychology, or psychoanalysis.” (BB 36 my emphasis)

To clarify the empirical aspect of Foucault’s work, Koopman emphasizes Foucault’s

\textsuperscript{183} Recognizing that these conditions are sufficient does not conflict with Foucault’s notion of a historical a priori that determines the limits of knowledge. These conditions are sufficient for certain possibilities within a given power-knowledge regime. Rendering my reading of Foucault’s genealogical work compatible with his notion of the historical a priori, however, requires that we understand the historical a priori as empirically derived and serves primarily an explanatory or strategic function. If we accept this, it would follow that it is necessary to have historical conditions in order for problematizations to be possible, but \textit{specific} historical conditions are contingent and only sufficient but not necessary to make a specific problematization possible. Whether we can justify arguing for the necessity of historical conditions from a Foucaultian point of view seems doubtful, especially if we accept his position as developing empirically. More importantly, for critique to be possible, we would have to recognize that an episteme is not internally consistent and can be transformed using resources within it. Though I consider this to be a sound reading of Foucault, it arguably involves a significant divergence from the view he endorses in \textit{The Order of Things}, where identifying an episteme is characterized as a "pure experience of order and its modes of being." Michel Foucault, \textit{The Order of Things} (Routledge, 2005), xxiii.
concern with conditions of possibility as opposed to Hume’s empiricism. According to Koopman, Humean empiricism searches for conditions of actuality, understood in terms of causal conditions. Locating conditions of possibility, alternatively, does not introduce any kind of necessary causation. The shift to genealogy, then, should not be seen as a complete break with the archaeological work. Instead, it offers a different approach in order to deal with specific problems identified in archaeology. As Koopman shows, Foucault maintains the question of conditions of possibility in his genealogical work, which becomes crystallized in the focus on problematizations. While archaeology specifies conditions that make discourses possible, it does not engage change and mobility and cannot account for periods of transition between epistemes. This is why conditions of possibility end up being inexplicably transient. These gaps, however, remain inaccessible under an archaeological approach, and as Koopman argues, this necessitates a shift to genealogy.

Attributing an empiricism to Foucault can be justified by appealing to a strong form of nominalism. In *The Birth of Biopolitics*, Foucault focuses on introducing his method through beginning with the assumption that universals do not exist. (BB 3) This marks a development of the nominalist approach Foucault had already endorsed in *The Will to Knowledge*, where the scope of nominalism was limited to power. Alternatively, the methodological nominalism introduced here confers an additional component to

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184 Koopman’s characterization of Hume’s work in terms of identifying causes that render specific phenomena actual is problematic given Hume’s critique of causation, which is itself a contentious matter in Hume scholarship. This, however, does not affect my argument of interpreting Foucault’s work in terms of empirical conditions of possibility.  
185 Koopman, “Historical Critique or Transcendental Critique in Foucault,” 119.  
186 Koopman, “Historical Critique or Transcendental Critique in Foucault,” 114.
genealogical analysis by uncovering the content of universals as historically constituted. Foucault’s genealogies, during this stage of his work, show that universals do not even exist in the mind as coherent entities, but are rather products of a multiplicity of relations that are discursively linked together. This does not merely commit him to the rejection of a Platonic understanding of universals, but also to rejecting conceptualism. Moreover, not only do universals not exist in the mind as concepts, they also are not reducible to verbal associations as we find in Hobbes and Hume. Given Foucault’s starting point, namely the analysis of practices rather than subjective experience, such universals are reduced to discursive formations that constitute bodies of knowledge and produce forms of subjectivity as power effects.

This aspect of Foucault’s work enables us to recognize an empirical role for genealogies. Foucault, thus, begins with a nominalist presupposition that is supported by the explanatory force his local analysis of concrete phenomena provides. Though nonexistent, these universals come to be shaped or “marked … out as reality,” by a set of practices that are interlinked with a regime of truth. (BB 19) This regime of truth, in turn, primarily consists of a set of rules that determine the truth or falsity of statements within a discourse. (BB 35)

Consequently, if universals do not have any explanatory force independently of historical empirical content, Foucault is not concerned with mapping out a deductive historical narrative grounded in necessity. In contrast to Hobbes, Foucault’s method is not a scientific deduction based on universals. Instead, for Foucault, historical analysis will shed light on the conditions of possibility of these universals, or on how it became possible to speak of madness, sexuality, or even the state. If this analysis does not follow
a deductive approach that deals with universals, and having disposed of the transcendental, it must be empirical in nature. Understood in these terms, and while recognizing that experience for Foucault is at least partly constituted by bodies of knowledge, we find a modified form of the Kantian project of accounting for the conditions that make experience possible. For Foucault, however, this experience is a present one, and its conditions are determined through historical analysis.

Yet undertaking the analysis of experience historically requires its own justification. Apart from referring to Nietzsche’s genealogy, Foucault never explicitly provides a justification for the historical approach, which he presents as a strictly methodological commitment. Whereas his nominalism justifies recourse to an empirical analysis, the historical nature of such an analysis requires further warrant. The credit his early genealogical work gives to Nietzsche provides a good justification for moving towards a historical analysis that produces subjects through power relations. Yet, as I’ve just shown, in his later work, Foucault insists that invoking a historical account in relation to the ontology of ourselves also entails a debt to Kant. As Foucault maintains in “What is Enlightenment?” the positive aspect of critique will not be concerned with determining universal limits but with “separat[ing] out, from the contingency that has made us what we are [or from contingent conditions of possibility], the possibility of no longer being, doing, or thinking what we are, do or think.” The Kantian aspect of critique, then, is modified to identify what is contingent and arbitrary as opposed to what is universal and necessary. As Hendricks argues, Foucault locates this in Kant’s reflection

187 Arguing for the possibility of critique under Foucault’s framework is inadequate as it does not yet offer normative direction for critique. I will return to this question in the next chapter as I argue that Foucault can at best endorse only a few basic normative claims.
on a contemporary historical moment and his prescription for a political impetus to move beyond the state of immaturity towards a free public use of reason. (WE 309) But whereas Kant was concerned with marking out the legitimate use of reason within a historical moment following his critique of pure reason, Foucault locates conditions of possibility in terms of contingency. This opens up the space for moving beyond what has been identified as contingent through a historical critique as opposed to a transcendental one, an analysis that identifies the contingent elements thus offering the possibility for transforming them. Foucault’s genealogies, therefore, should be understood as *empirical verifications* of the historical conditions of possibility of what is said and known, which also allows for constituting ourselves differently through critique.

It is important to recognize that Foucault’s historical nominalism does not attempt to grasp the reality that lurks beneath our delusions of stability. Thomas Lemke, for instance, argues that Foucault’s historical nominalism entails a “negative” and a “positive” trait. The negative trait pertains to unpacking presupposed universal truths, or as Foucault puts it “Questions of Method,” it is a “breach of self-evidence.” (QM 226)

The other function is a positive one that follows from introducing new links and relations, which present a phenomenon as universal and necessary. For Lemke, what is primarily at stake in Foucault’s view is whether the concept of the state we have is “identical to the

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188 Endorsing a Foucaultian approach to the question of conditions of possibility does not necessarily preclude Kant’s transcendental conditions. It is still possible to maintain that there could be necessary conditions for experience that are ahistorical, but these would have to be more limited than the ones Kant provides.

In other words, Lemke takes Foucault to give an accurate characterization of the state through invoking an analysis of historical processes that produce it as a dynamic entity. Though Lemke moves on to discuss the status of the state as a “transactional reality”, to use the term Foucault introduces in *The Birth of Biopolitics*, the advantage he ascribes to Foucault’s position suggests that there is a truly accurate account of the state that must be discovered through genealogical analysis. There is certainly a tendency in Foucault’s work to identify the state as a process, but ultimately, for Foucault, understanding the state as a fixed entity or as a dynamic process that is the product of multiple arts of government must be recognized as a strategic move rather than attempting to discover the underlying reality of political relations.

Furthermore, whereas Lemke is correct in highlighting the negative and positive roles in Foucault’s genealogical work, these are not to be identified with historical nominalism, but rather as results that follow from it. As I’ve maintained, Foucault’s genealogical work on governmentality follows a method that is concerned with identifying historical conditions of possibility, and at least partly develops out of his reading of Kant. Consequently, in addition to justifying an empirical historical approach, the nominalism to which Foucault is committed also explains his refusal to provide a clear theory of power, while insisting on putting forward an analytics or mere methodological commitments. This leads to the other implication of nominalism for Foucault, namely the concrete nature of the analysis invoked. Foucault insists on

190 Lemke, “An Indigestible Meal?” 5.
providing local content for analysis that is not limited to speculative conclusions derived from universals. Thus, even analyses that merely invoke power are insufficient, for Foucault maintains such analyses do not have any explanatory value. Therefore, an explanation will dispose of universals except as they appear to be “something” that is marked out in reality, and thus it will return to historical conditions of possibility. But for such an analysis to take place, one needs to invoke a concrete “analytical grid” for relations of power. Power relations on their own do not have explanatory force but require an empirical analytical grid as their principle of intelligibility. This grid is determined through an archaeological account that is produced by determining the historical limits of discourse, and a genealogical method that locates moments of contingency.\textsuperscript{192}

This approach helps explain why Foucault switches to a different characterization of power in his later work. In “The Subject and Power,” Foucault specifies that a power relation should be best understood in terms of government, or as the “conduct of conduct.” (SP 341) Foucault contrasts this with the warlike understanding of power he had identified in \textit{Society Must be Defended}, and argues that a power relation is “neither warlike nor juridical.” (SP 341) Recognizing a power relation in terms of Governmentality enables us to offer content to a power relation. To understand a power relation in terms of government, then, or in terms of the conduct of conduct, is to invoke a grid of intelligibility that is not vacuous precisely because it depends on a historical analysis. This is why Foucault argues that the notion of governmentality becomes useful.

\textsuperscript{192} For instance, in \textit{The Birth of Biopolitics}, governmentality is presented as an “analytical grid” for power relations. (BB 186)
to “tr[y] out” in order to provide a “point of view” to the shifting history of government.

(BB 186) It is a principle of intelligibility, but qualifies only as a “transactional reality” as Foucault maintains. In other words, while abstract power relations, or abstract government, cannot offer an explanation by themselves, an analysis of the set of practices that are constituted by power relations provide the required “grid” in relation to a regime of truth determining truth and falsity.¹⁹³

**Governmentality and Power – the New Conception of Power**

Whereas Foucault initially situates his view of power in *Society Must be Defended* as a counter-Hobbesian position, which promises to discover the rumbles of battle underneath any political account and thus reduce political analysis to war, Foucault relinquishes some of these elements as his work on governmentality crystallizes. This leads to the introduction of a more developed conception of power, a shift that Foucault does not clearly shed light on in his published work. But in his lectures *The Birth of Biopolitics*, Foucault develops crucial empirical elements for his account. This can be most clearly mapped out in the transformation he identifies in the form of government between *raison d'etat* and the more recent modern form. The crucial shift occurring near

¹⁹³ In “What is Critique,” Foucault offers the following insight with regards to the connection between power and Governmentality, contending that governmentality links together the exercise of power, the production of subjectivity, and the use of discourses of truth: “The core of critique is basically made of the bundle of relationships that are tied to one another … power, truth, and the subject. And if governmentalization is indeed this movement through which individuals are subjugated in the reality of a social practice through mechanisms of power that adhere to a truth, well, then! I will say that critique is the movement by which the subject gives himself the right to question truth on its effects of power and question power on its discourses of truth… Critique would essentially insure the desubjugation of the subject in the context of what we could call…the politics of truth.” Michel Foucault, “What Is Critique?,” in *The Essential Foucault: Selections from the Essential Works of Foucault, 1954-1984*, ed. Paul Rabinow and Nikolas Rose (New York: The New Press, 2003), 266.
the middle of the eighteenth century for Foucault is that of the emergence of the economic sphere as a space that is beyond the grasp of the sovereign. This produces a crisis within juridical thought, for whereas the art of government under sovereignty is exercised over juridical subjects, it appears to be inhabited by subjects of interest, or subjects whose interest constitutes the core of economic analysis. Whereas juridical subjects can give up their rights in order to institute a transfer in power to a sovereign, economic subjects cannot relinquish their interests in favor of a ruler, for natural economic laws dictate that the economic realm must be beyond intelligibility, functioning according to laws that will ensure its own stability independently of interference, and thus outside the control of the sovereign. (BB 282)

This new form of government that emerges out of the development of an independent economic space finally develops into a dichotomy between the state and civil society. Yet one significant implication of Foucault’s analysis is that civil society is not an obstacle to the functioning of the state through its constant activity. It is, rather, a part of modern governmentality: a correlate body that is the object of governance. Foucault argues that whereas with early modern thinkers, such as Hobbes and Locke, the social body was reducible to a set of individuals that were linked together through a political bond, the social bond within civil society appears to develop spontaneously as a result of sentiments of benevolence within the social body that are constantly being challenged by an egoistic drive belonging to the economic individuals that constitute society. (BB 297) Foucault attributes this view to Adam Ferguson, whose Essays on the History of Civil Society inaugurate a shift towards understanding social relations in terms of an inherent inequality. Under these conditions, it is pointless to consider what a prior condition to
that of the state would be like, for such hypothetical claims have no bearing on history or on normativity. Thus, not only is the notion of a contract challenged historically, an argument which had already been articulated several times since Hobbes, but a contract is also not required to produce a unified social body. The social body is constituted out of social relations that are the product of sympathetic inclinations, a view that we also find among sentimentalists such as Hume and Adam Smith. In other words, no exchange of rights is necessary to produce a social body, for civil society already entails within it sufficient conditions to produce a unified society. (BB 281-82, 302-03)

This notion of a civil society replaces contract in another sense, namely, that which Foucault discusses under the rubric of subjection. Whereas for both Hobbes and Locke, contract results from a condition of equality in the state of nature and leads to the appearance of hierarchy within a community, subjection under Ferguson’s model of government is a natural process that arises within social relations due to the distribution of roles. Consequently, there is no need to transfer power from individuals in a state of equality to a sovereign thus establishing social differences as Hobbes had argued. These differences are spontaneous and give rise immediately to power relations. (BB 304) Foucault suggests that under this model, “the fact of power precedes the right that establishes, justifies, limits, or intensifies it; power already exists before it is regulated, delegated or legally established.” (BB 304)

Ferguson’s conception of political power as prior to any agreement and coextensive with social relations should strike us as quite similar to the view Foucault endorses in “The Subject and Power.” In The Will to Knowledge Foucault had argued for understanding power relations in terms of forces and maintained that such relations can
only arise out of inequality. In his later work, Foucault retains the condition of inequality but appears to minimize references to power relations as material forces that act on bodies to constitute subjects. Hendricks’s reading of Foucault’s relation to Kant proves to be useful here. If Foucault’s later project involves working on the present in order to uncover limits as contingent, then the starting point of any analysis must be recent views of power relations, and in this case partly that of Ferguson. The contemporary relevance of political analysis requires endorsing current social formations, or a view of power that arises out of unequal social relations.\(^{194}\)

Two questions remain unanswered. First, how should we understand the different conception of power that emerges throughout Foucault’s work on governmentality? Second, under this conception of power, what would it mean to retain the Kantian aspect of Foucault’s critique?

Reconciling the two conceptions of power we find in Foucault presupposes the need to provide a coherent account for both. Yet one may argue that Foucault’s commitment to nominalism rids us of such a necessity. Consequently, one way to understand the relation between these conceptions is to recognize that universals are only constituted discursively. In this case, there is no need to unify our account of power; instead, we can recognize that the material activity of power relations is only one form power can take. Similarly, power in terms of certain governmental practices is another form power can assume, in which Foucault finds the possibility of a degree of autonomy or freedom.

This response, however, remains inadequate, as it renders the use of “power” vacuous

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\(^{194}\) Of course, Foucault need not recognize these social relations as naturally constituting social unity through benevolence, as in Ferguson. His very commitment to a historical approach precludes that.
in the sense that it can refer to a multiplicity of unrelated phenomena. The excessive nominalism of this reading raises a problem for Foucault. Foucault sometimes appears to reduce everything to practices, which would thus eliminate the need to use universals. This would give further credence for his historical nominalism, which is itself based on the rejection of universals as real or conceptual entities. Foucault, however, very clearly does not reject the use of universals altogether. For instance, in “The Subject and Power,” he introduces a general account of power relations. In *Discipline and Punish*, he had already focused on discipline and characterized it with some generality. Foucault’s use of universals can, thus, be allotted an explanatory role without being committed to their metaphysical existence as real entities, nor to their conceptual existence in the mind.

This, however, requires identifying some unifying component.

In order to render coherent Foucault’s view, it may be useful to refer to his use of *dispositif* or apparatus. In a 1977 interview, Foucault states

> What I’m trying to pick out with this term is, firstly, a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions—in short, the said as much as the unsaid... The apparatus itself is the system of relations that can be established between these elements. (CF 194)

Foucault continues to specify that an apparatus, in a specific historical moment, has a “dominant strategic function.” (CF 195) The analysis of an apparatus, thus, must examine the relation between these different elements in order to determine an overarching strategy. This is why an apparatus is “essentially of a *strategic* nature,” determining how
forces are modified, blocked, or developed in order to achieve specific goals. (CF 196)

The material activity of forces, then, should be understood as part of the more encompassing apparatus Foucault identifies, or as means that allow for materializing the strategic goal. These force relations are, moreover, often supported by knowledge claims. Recognizing the heterogeneity of the elements involved in an apparatus, therefore, requires that we distinguish between practices that take the body as their target, such as disciplinary techniques, and the overall strategic functions they fulfill that are not reducible to the minute force relations. To understand a power relation in terms of governmentality, then, involves recognizing the sought-after strategic goal in any confrontation. In “The Subject and Power,” Foucault maintains that a power relation always involves a strategy of struggle, given that it ultimately aims at triumph. (SP 346)

This is why a power relation should be understood on the model of government, as it involves modifying forces for the sake of attaining an end. Understanding a power relation, therefore, involves recognizing the role of material forces, which as I argued in chapter two must be understood relationally, but it also invokes a wide array of mechanisms that regulate behavior, and identifies them in terms of an overarching, if momentary, strategy. The strategic element, however, can only have explanatory force when coupled with a historical analysis.

This view of power relations can also help us understand in what sense Foucault is a Kantian. I have argued that Foucault’s view should be understood as entirely empirical and specifically historical, while disposing of any transcendental aspect. As I have maintained, since genealogy is concerned with uncovering contingency where necessity is presupposed, a genealogy of governmentality will be concerned with identifying
contingent elements that can be transformed within the history of governmental practices which aim at the “conduct of conduct.” This is further corroborated by Foucault’s insistence in *The Birth of Biopolitics* that politics is nothing but the “interplay of … different arts of government.” (BB 313) The Kantian element in this approach, then, appears in locating, through an empirical inquiry, conditions of possibility that remain contingent and subject to transformation. Following Foucault’s reading of Kant, this allows for identifying a moment in the present where critique can be effective.

Unlike Kant, Foucault’s commitments are methodological and not transcendental. Consequently, Foucault is not concerned with metaphysics. Whereas universal and necessary conditions leave us with a metaphysical noumenal dependency in Kant to which we have no access, Foucault’s employment of contingent and historical conditions does not lead to the introduction of the noumenal. Instead, we have conditions that can be transformed historically, not ones that are fixed and determined as they constitute preconditions for our experience. Foucault recognizes that the historical conditions certainly do influence our experience. Through discursively defining limits of intelligibility, our experience is constituted according to historical rules that can be transformed beginning with a genealogical analysis. Changing discursive limits, however, does not occur through appealing to an ahistorical position, but by using tools that are already present within an existing discursive formation. Consequently,

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195 The use of “discursive” in Foucault is ambiguous, as Oksala notes. Fully determining what discursivity means for Foucault is beyond the scope of this dissertation. Oksala, “Anarchic Bodies,” 104-05.
196 Even in his later ethical period, Foucault specifies that crafting oneself will depend on the resources available in one’s culture. In “The Ethics of the Concern for Self as a Practice of Freedom,” Foucault states, “these practices are nevertheless not something
Foucault’s view can be regarded as Kantian in another way. Whereas Hendricks had emphasized Foucault’s concern with critiquing present limits, I suggest that Foucault’s Kantian critique also has a bearing on the relation between politics and metaphysics.

Foucault argues that since Kant, the political task has been “watching over the excessive use of rationality.” (SP 328) Kant takes up this task by arguing that there are limits resulting from our active contribution to experience, a contribution that cannot be subtracted. By revealing those limits as contingent, Foucault does not open up the space to dogmatism by providing access to reality, but rather undermines to some degree the authority of all knowledge through emphasizing that historical shifts do not entail coming closer to a metaphysical ideal. These shifts are the products of power struggles, ones that constitute the social body in terms of inherent relations of inequality, while being masked by a “will to truth” that feigns progress towards reality.

This allows us to finally return to the divide that Foucault credits Kant with instituting, namely, that between an analytic of truth and the ontology of ourselves. If we recognize that Foucault is concerned with historicizing and undoing limits in order to retain a skeptical element with respect to all knowledge, we also should recognize that the question of the ontology will have a bearing on the question of the truth. The two are certainly not identical, but it is significant to recognize that offering a history of our constitution as subjects in relation to power and truth further credits the critique of metaphysics Kant had instituted. Uncovering limits as historical fulfills the task of

that the individual invents by himself. They are patterns that he finds in his culture and which are proposed, suggested and imposed on him by his culture, his society and his social group.” Michel Foucault, “The Ethics of the Concern for Self as a Practice of Freedom,” in *Ethics: Subjectivity and Truth (Essential Works of Foucault, 1954-1984, Vol. 1)*, ed. Paul Rabinow (New York: The New Press, 1998), 291.
destabilizing even the limits that Kant took as fixed.

To return to one of my earlier concerns, the implications of reading Foucault vis-à-vis Kant this way bears in several ways on his interpretation of and arguments against Hobbes. I argued earlier in this chapter that we should recognize a positive aspect of political power in Hobbes that aims at constituting virtuous subjects who are inclined towards peace. This positive element follows from a material analysis of the passions which is ultimately grounded in *conatus*, and thus in a metaphysical material view. I then argued that Foucault’s historical approach follows from endorsing Kant’s critique of metaphysics and modifying the condition that make knowledge possible by identifying contingent elements rather than necessary ones. If Kant had shown that the noumenal is inaccessible, Foucault develops a political account that, first, radicalizes that critique by promising to purge, on empirical grounds, all universal and necessary conditions, and, second, develops a post-Kantian view of politics. The question then becomes: How can we introduce a political account that does not presuppose metaphysical commitments and is nonetheless grounded? Foucault’s answer is to return to a historical analysis. Given the indebtedness to Kant’s rejection of the dependence on metaphysics, what then can we retain from Hobbes’s view?

Earlier in this chapter, I showed that by replacing universal and necessary conditions with local and contingent ones, Foucault effectively replaces the metaphysical basis of explanation with a historical one. Though Hobbes does indeed base his view on a metaphysics, I maintained in chapter three that there is a historical element in Hobbes in the condition he locates in the state of nature given his commitment to a nominalism that rejects the reality of universals. Accepting the Kantian move, however, requires that we
abandon any metaphysical basis, which renders the relevance of Hobbes’s account from a post-Kantian viewpoint questionable.

However, though less developed, the positive aspect of political power we find already in Hobbes is consistent with the analytics of power Foucault endorses and can, for the most part, be retained. It is true that Hobbes takes this power to stem from the sovereign, whereas Foucault maintains that power is exercised in an anonymous manner. This difference, however, follows from replacing the role of the sovereign by disciplinary and biopolitical practices. I see it as more important that, rather than basing the positive account of power on a conative drive for self-preservation following from a geometric analysis, a Hobbesian analysis of the passions can also be pursued historically following the path paved by Rousseau and endorsed by Nietzsche. This allows us to conceive of politics, in a strong Hobbesian sense, in terms of modifying the passions of individuals for the sake of introducing virtues. A material analysis of the passions will no longer be based on a substance metaphysics, but develops out of recognizing ourselves as historical outcomes, that is, as processes that are constructed by a multiplicity of contingent factors.

Conclusions

The goal of this chapter has been twofold. First, I have argued that despite what Foucault maintains, Hobbes’s view of power should not be reduced to prohibition. Hobbes identifies the conditions for stabilizing society in transforming the objects of passions in order to constitute law-abiding citizens. This transformation can operate negatively, through the terror the sovereign spreads, or positively, by education, reward, and punishment, along with encouraging virtues that instill peaceful dispositions. I have also argued that Foucault’s genealogical approach should be seen as one that broadly
follows from Kant, by directing critique towards contingent conditions of possibility that are identified from a historical analysis. It follows that Foucault’s view disposes of metaphysics and pursues a post-Kantian political account. Given Hobbes’s dependence on materialist metaphysics, rendering this conception of politics consistent with that of Hobbes requires that we emphasize the positive operation of political power in Hobbes. The overlap between the characterization of political power we find in both Hobbes and Foucault serves as a basis for developing a political view that begins from identifying actual political practices through a historical analysis. The next chapter, therefore, argues for a non-ideal view by engaging Rawls’s account. By referring to both Foucault and Hobbes, I seek to justify beginning from actual political practices by arguing that Rawls cannot adequately account for the role of truth in politics.
Chapter Five

Normativity in a Nonideal Approach to Politics

In chapter two, I have argued that Foucault’s rejection of the view of power he ascribes to Hobbes ultimately results in a materialist account of the activity of power relations. I have suggested that the extent to which Foucault can successfully claim that his view entails an overturning of the conception of power we find in Hobbes will depend on whether Hobbes can offer a materialistic account that recognizes the effects of power on individuals. Consequently, relying on the notion of contract in a Hobbesian sense to provide normative dictates need not be rejected following a Foucaultian analysis. Chapter three offered a reading of Hobbes that renders the two views consistent, as I have rejected an understanding of Hobbes as a metaphysical skeptic. Instead, I maintained that Hobbes’s politics is best understood as developing out of his commitment to metaphysical materialism. I have argued that Hobbes methodologically bridges the gap between the materialism he endorses and his politics. It is ultimately by pursuing a correct method that we can arrive at a coherent understanding of the physical world, a method that we also find applied in Hobbes’s political work. Given the material basis for Hobbes’s contractual view, Foucault’s rethinking of power should not be understood as a complete reversal of the Hobbesian account, but must be recognized as complementary.

Yet arguing that Foucault’s view is complementary to that of Hobbes requires that I account for two additional components. This is why chapter four turns first to examine the understanding of power we find in Hobbes, while arguing that political power in Hobbes’s work is not strictly prohibitory. Like Foucault, Hobbes recognizes that power has ‘positive’ effects by producing forms of subjectivity. This is most clearly presented in
Hobbes’s work in terms of the effects of state practices on the passions of individuals. Hobbes offers a positive conception of power following the meticulous analysis of the passions he endorses. Rendering the two views compatible, however, requires accounting for another component pertaining to the metaphysical commitments both introduce. Whereas Hobbes puts forward a metaphysical account to ground his politics, I have offered a reading of Foucault’s view as primarily post-Kantian, and thus as grounding politics in a historical analysis that recognizes the historicity of knowledge, subjects, and power relations. This results from recasting the Kantian question in terms of historical and contingent conditions of possibility instead of universal and necessary ones. In the absence of a metaphysical basis for his political analysis, Foucault’s account can be best viewed as a post-Kantian continuation of the Hobbesian project. If the metaphysical world remains closed off to us, then the descriptive account of politics will rely on a historical analysis of practices.

Bridging the gap between Foucault and Hobbes, however, leaves unanswered the question of what implications we can draw with respect to the more recent contractarianism of Rawls. To maintain that Foucault’s view is compatible with Hobbes’s does not mean that it will be compatible with all forms of social contract theory. As I have shown in chapter one, Rawls’s freestanding politics fails to offer justifications for its normative commitments once it disposes of a nonpolitical basis. This chapter, moreover, aims at deriving further problems that arise with Rawls’s view from the Foucaultian-Hobbesian position I have outlined. I first argue that a Foucaultian account on its own can only justify a very limited number of normative commitments. I then argue for the priority of beginning with a nonideal approach, and derive from this a critique of Rawls’s
commitment to both equality and stability. I maintain that we can arrive from Foucault’s view at two main normative claims, equality arising from a negative argument, and skepticism of one’s own beliefs as a result of engaging the commitments of others. This leads to recognizing the need to critically engage the beliefs of others, which undoes the distinction between the public and private uses of reason Rawls introduces. The last section of the chapter, therefore, focuses on accounting for historical truth claims in politics, while arguing that a more engaged politics is required, one that does not insulate claims to truth by limiting them to a private sphere.

**Equality and Inequality: From Analysis to Normativity**

In chapter one, I argued that Rawls cannot offer justifications for his normative commitments due to the absence of an underlying nonpolitical ground. Though Rawls maintains that his political conception is inherently moral, the absence of a comprehensive doctrine upon which his prescriptions stand render the normativity he introduces unjustified or reveals that his political conception itself amounts to a comprehensive doctrine. Primarily, Rawls is normatively committed to at least two features of liberalism; equality in terms of reducing unequal distribution resulting from historical contingencies, as derived from Rousseau; and freedom understood in the Lockean sense of liberty of conscience.\(^ {197}\) (KCMT 307) Both commitments, of course, cannot be straightforwardly Rousseauian or Lockean, as that would entail justification in

\(^{197}\) There’s a question as to how we should understand equality to feature in Rawls’s work, as it clearly does not involve a simple equality that dictates equal distribution. As Norman Daniels argues, the form of equality we find in Rawls is best understood as a complex egalitarianism as exemplified by his difference principle. Norman Daniels, “Democratic Equality: Rawls’s Complex Egalitarianism,” in *The Cambridge Companion to Rawls*, ed. Samuel Richard Freeman (Cambridge: Cambridge University Press, 2003), 241–76.
terms of appealing to comprehensive doctrines, which would violate the freestanding status of politics. As a result, Rawls considers the original position under the veil of ignorance to offer a means to derive a conception of justice as fairness with an egalitarian commitment.

Taking equality to be a normative ideal offers a link with the discussions of Foucault and Hobbes in chapters two and three respectively. Whereas Rawls begins with the ideal of equality, both Hobbes and Foucault introduce a conception of politics that is grounded materially while choosing different starting points. Hobbes puts forward an analysis of the state of nature as a state of war, one that rests primarily on conceiving human beings as influenced by their passions. For Hobbes, this state of war ensues as a result of the condition of equality we identify in the state of nature. Central to the political problem for Hobbes, then, is how to arrive at unified power out of equal natural persons who mistrust one another, compete with one another, and at times seek glory.

Alternatively, as I have argued in chapter two, Foucault maintains that unequal relations in society result from the inherent instability in force relations. Foucault maintains that we find a power relation in every social relation that involves inequality. His analysis of power in society, therefore, follows from identifying moments of inequality which have produced these power relations and continue to be perpetuated through power mechanisms that invest the body. Foucault, therefore, can offer a historical analysis of how such mechanisms have led to exacerbating the condition of inequality and maintaining it. Consequently, this leads him to an analysis of the clinic, madness, sexuality, and delinquency among other fields of study. Though Foucault recognized the need to advocate for transforming the way inquiry into these fields is
undertaken in order to improve the conditions of excluded members of the community, and in fact was actively involved in pushing for such an improvement, his analysis cannot justify why such improvement is needed. Indeed, Foucault’s largely descriptive position sheds light on inequalities and exclusion in society, rendering problematic the assumption of equality as a starting point we find in Hobbes and Rawls given that there are certain groups that are excluded from the starting point. Foucault, however, lacks a positive project to justify bettering such conditions.

In fact, one could argue that this allows Foucault to maintain consistency given his insistence that any positive account could transform into normalizing mechanisms. Attributing a positive normative project to Foucault becomes even more problematic if we assume that a positive account must be universal in scope. Such a universal view renders a local historical analysis obsolete, especially one that is concerned with identifying historical contingent conditions of possibility as I have argued in chapter four. Foucault, therefore, can only offer conclusions based on local analyses and cannot endorse any view that seeks to put forward a universal political conception. This would entail a rejection of Rawlsian liberalism, a Hobbesian conception of the state, and more generally any attempt to introduce a positive normative conception given its inability to recognize its own historicity.

Yet there are limitations to this argument against having a normative account. Normative commitments can still be tentative and offer a more or less flexible generality even if we are cautious from characterizing them as universal. As I have argued in chapter four, historical analysis identifies sufficient conditions for knowledge and not necessary ones. It follows that different historical conditions could generate similar
power-knowledge complexes that result from different historical conditions, which could also require similar normative moves. For example, the recent resurfacing of white supremacy in Europe and the United States can be explained by referring to significantly different historical circumstances, but the phenomena generated are partly similar, and confronting them will often, though not always, involve making use of similar tactics. Relying on tentative normative dictates, therefore, requires that we are involved in experimental tactics to determine what is most effective. Such experimental approaches, however, need not develop into all-encompassing hegemonic mechanisms that infiltrate bodies of individuals. For instance, Foucault shows in his analysis of Governmentality that there is no essence for the state, but rather a changing conception of government. Perhaps Foucault is, therefore, correct in maintaining that a theory of the state is not needed. (BB 77) This, however, should not preclude offering a prescriptive view that prefers one form of government to another. A Rawlsian approach can offer an answer in terms of preferring the government that safeguards the equality and freedom of citizens. We may reject Rawls’s position, but Foucault’s view does not render putting forward such claims superfluous. We could still recognize that our criteria for preferring one government to another are transient and limited to specific historically instantiated problems rather than universal but revisable as Rawls contends. This allows for incorporating historical transformations into our notion of government, and consequently, as long as we have a fluid enough understanding of its role, we need not fall into contradiction. As I argue, this may involve recognizing some generality to normative conclusions while disposing of the universality we find in Rawls. This general scope of normativity could often lean on what we take to be necessary conditions, which opens the
space for the continuous function of critique. If we take seriously Foucault’s argument that historical critique should be recognized in terms of recasting what we take to be necessary in terms of contingency, then there’s a sense in which we cannot completely dispose of invoking necessity as a basis for normativity. This requires that historical critique is regularly undertaken which results in regularly revising our normative dictates. Given the dependence of political problems on historical conditions, and given Rawls’s explicit exclusion of unreasonable citizens, advancing the normative dictate of safeguarding the freedom and equality of citizens may not always be desired under different circumstances, especially when these demands are coupled with the discourse of defending society.

One could maintain in a Foucaultian vein that the normative implications of his work entail minimizing being governed as much as possible. As I have maintained in chapter two, if there is no outside to power, and if freedom is not to be conceived on the model of liberation from power, then the question becomes one of how we can reduce as much as possible such government by decentering concentrations of force. In fact, in his essay “What is Critique?” Foucault argues that the critical attitude primarily rests in “not being governed quite so much.” (WC 265) However, two problems follow from this argument. First, it is clear that this dictate is still an entirely negative one that specifies the target of critique but offers no alternative. The fact that critique should target government certainly does not mean that the absence of government is an ideal state to pursue. We still need to offer alternatives that would be amenable to Foucault’s insistence that freedom should not be conceived on the model of complete liberation of power. Second, accepting that critique should aim at decentering power relations and thus
establish some kind of equilibrium in such relations rests on assuming a normative ideal of equality that we ought to work towards. Foucault’s work cannot straightforwardly justify this ideal or any positive ideal given its strictly analytical character.

Consequently, maintaining a critique of practices that entails a strictly negative evaluation without offering alternatives remains inadequate. Such a position could easily collapse into conservatism and lead to a kind of political paralysis. Foucault rebuffs this claim by maintaining that if “everything is dangerous, then we always have something to do.” (GE 256) Maintaining that everything is dangerous entails recognizing that current phenomena could transform into insidious power-knowledge complexes that operate through exclusionary classifications. Consequently, long-term normative commitments become problematic as they often unwittingly risk replacing already existing relations of domination with new ones. Foucault clarifies that the political work involves repeatedly identifying the main danger and directing our efforts to transform it. He therefore argues that his position leads to a “hyper- and pessimistic activism.” (GE 256) Foucault insists that to say everything is dangerous is not to say everything is bad. But determining the direction of this hyper and pessimistic activism requires offering a normative account. In its absence, this activism is left blind and unable to justify the kind of change it seeks to invoke. In other words, if everything is indeed dangerous, then the alternatives may be just as bad as current practices, if not worse.198

198 Mark Olssen argues that we find in Foucault a “right to resistance” that is justified by appealing to the Hobbesian idea of avoiding the state of war in order to guarantee survival. Olssen argues that Foucault’s reading of Hobbes entails a legitimate move from actual war to the language of rights, one that shifts from actual battle to a discursive war in the social sphere to avoid the threat to survival. Olssen, therefore, concludes that Foucault’s right to resistance can be justified on the grounds of security. While I am
This objection to Foucault, however, assumes that we should take his view to be comprehensive and complete. As I have shown in chapter two, the view Foucault introduces could be complemented by an analysis having a different starting point, that of equality. Unlike Rawls, Hobbes does not start with the assumption of the ideal of equality, but rather offers an analysis of the natural condition in the absence of a sovereign under a condition of equality. Equality, for Hobbes, develops into a normative commitment once the state is instituted as a result of rationally binding laws of nature. (L 1.16.24) As I showed in chapter four, for Hobbes, all prescriptive content is justified by appealing to self-preservation, understood in terms of a material endeavor that instigates the passions of aversion or appetite, leading eventually to the derivation of a complex network of passions that are grounded in conatus. Hobbes, therefore, does not fall into the problem of deriving normative claims from descriptive claims, for he does not offer a view of natural law as binding categorically. Instead, as Hampton maintains, Hobbes’s laws of nature are best understood as hypothetical imperatives; if we wish to preserve generality in agreement with the view that we can derive some normative conclusions by appealing to the Hobbesian argument for avoiding the state of nature, I consider Olssen’s view to be problematic in a number of respects. As I have argued in chapter two, Foucault attacks the view Hobbes introduces as he takes it to overlook the underlying war beneath politics. Foucault, therefore, cannot straightforwardly endorse the Hobbesian argument without reworking his critique. Moreover, deriving a right to resistance also cannot be clearly justified on Foucaultian grounds as it is far from clear that everyone should have a right to resist, including groups that seek to subjugate others. Finally, the emphasis on security as the primary concern of democratic politics also raises problems, as the concern for security could easily develop into exclusionary practices. Mark Olssen, “Chapter 14: Invoking Democracy: Foucault’s Conception (With Insights from Hobbes),” *Counterpoints* 292 (2007): 205-06.
ourselves, which we often do given our material condition, we should abide by the laws of nature.\textsuperscript{199}

A similar move from the descriptive view to the normative is lacking in Foucault. To conceive of critique in terms of not being governed so much is to determine the conditions that make change possible. On its own, it does not provide us with a direction as to what change we should aim towards or why change is desirable. Nonetheless, even if we follow Foucault’s view, we could still derive minimal negative conclusions. As I will argue in the next section, this primarily concerns developing a skeptical approach with regards to one’s own dogmatic beliefs by considering the contingency of historical conditions that made such views possible while introducing a commitment to a negative form of equality. Understanding Foucault’s project as partly aiming at warding off dogmatism sheds light on his insistence that he is taking up the Kantian project under different conditions. Any breach in self-evidence that results from unmasking the historical nature of what is taken to be necessary should have the outcome of recognizing that one’s own views are far more tenuous and less convincing than at first sight.

I propose, therefore, to couple this negative approach with a positive one we derive from Hobbes. This will be the focus of the last two sections along with drawing the implications with respect to Rawls’s view. But before that, the question of how to offer a direction to normativity raises the problem of the priority of ideal theory over the nonideal. The next section, therefore, will argue for the logical priority of nonideal theory over ideal theory.

Ideal Versus Nonideal Theory

The question of what direction our normative endeavors should follow has a bearing on Rawls’s distinction between ideal and nonideal theory. In *Political Liberalism*, Rawls maintains that nonideal theory is concerned with questions of transitioning towards the overarching ends determined by ideal theory. (PL 17-18, 285) Moreover, in *The Law of Peoples*, Rawls uses this distinction in reference to cases in which compliance can be expected – ideal conditions – as opposed to conditions where the initial situation shows that compliance cannot be expected. Nonideal theory, therefore, refers either to cases where “regimes refuse to comply with a reasonable Law of Peoples,” or in cases where circumstances make it impossible to attain stability, cases to which Rawls refers as “burdened societies.” (LP 5) Rawls, accordingly, chooses to begin with ideal theory and then put forward the conditions that would make it possible to come close to such ideals in situations where compliance cannot be expected.

The question that arises is whether, as Rawls maintains, an ideal account is required in order to put forward prescriptive claims. I initially pointed to this problem with reference to Sen’s work in chapter one. Sen argued that an ideal conception of justice is redundant since it does not allow us to choose between real possibilities. Thus, choosing between possible conceptions of justice in contrast to ideal ones requires an independent inquiry.\(^{200}\) As I argued in the previous section, the problem Rawls presents can also be extended to the view I introduce, especially with deriving normative content. One chief difference between the Foucaultian-Hobbesian view I offer, on the one hand, and the Rawlsian system, on the other, is whether we begin with specifying ideal

conditions and move towards arguing for feasibility, or whether we take as our starting point an analysis of actual political conditions and from there develop a normative account.

Yet articulating clearly the problem that follows from beginning with ideal conditions seems difficult. The inadequacy of ideal theory has been stated in different ways. For instance, Colin Farrelly argues that ideal theory fails to offer guidance as to how we should act. This results from two problems that afflict ideal theories.\(^{201}\) On the one hand, such theories are “cost-blind,” or do not adequately consider the cost of establishing basic rights for instance. Often, societies will fail to develop into liberal democracies not simply because of a lack of political will, but due to the lack of technological and economic development. It follows, then, that the basic liberties Rawls argues should be provided to everyone fails to take into consideration what would be required for those liberties to be provided in such communities.\(^ {202}\) On the other hand, Farrelly contends that ideal theory only takes into consideration a “narrow view” of misfortunes that could affect societies. Rawls’s view fails to take seriously health care concerns, unemployment rates, in addition to the accumulating pressure that results from taking part in a global economy. Rawls, alternatively, presupposes a closed society, resulting in an idealization that fails to consider the real conditions we find in societies and the trade-offs that need to be accepted.\(^ {203}\) Farrelly maintains, therefore, that only fact-


\(^{202}\) Farrelly, “Justice in Ideal Theory,” 850.

\(^{203}\) Farrelly, “Justice in Ideal Theory,” 855.
sensitive nonideal theories will be able to guide us as to how we must act while making
decisions as to “how best we can use our resources.”

Farrelly, however, does not offer an adequate answer to the problem I raised in
the previous section. Even if we accept that nonideal theory is more capable of
addressing problems based on real situations and actual facts, the question remains as to
how we choose to address these problems. In other words, even if we accept that ideal
theory is not action guiding because it cannot inform us when it comes to making
decisions in nonideal circumstances, nonideal theory is also unable to provide a
normative direction for our actions. Moreover, as Eva Erman and Niklas Möller argue,
the nonideal part of ideal theory usually aims at addressing the question of how to act
given that we are always making decisions under nonideal conditions. If we take
Rawls’s view as an example, his view on nonideal theory addresses the question of what
approach we should follow in situations where noncompliance obtains and the ideal
appears to be far-fetched.

One could also appeal to the argument John Simmons presents in defense of ideal
theory, one that I will argue against shortly. Simmons defends the priority Rawls allots to
ideal theory by maintaining that Rawls’s appeal to nonideal theory appears in situations
where the ideal is far from being achievable, and where intermediate measures must be
taken in order to arrive on the long run at the ideal objective. Given that Rawls’s use of
nonideal theory partly pertains to situations where unfortunate noncompliance is the
product of political crises in “burdened societies,” the concern Farrelly puts forward as a

205 Eva Erman and Niklas Möller, “Three Failed Charges Against Ideal Theory,” Social
narrow view of misfortunes is already addressed. In both these cases, Simmons maintains that not applying the ideal principles of justice fully is only justified when nonideal practices are part of a process aiming at achieving the ideal conception of justice.\textsuperscript{206} For Simmons, this primarily results from accepting that more serious injustices must be resolved first before ideal conditions are implemented, which may often require adopting nonideal measures.\textsuperscript{207}

As Simmons argues, though determining what constitutes a graver injustice is a moral matter to be resolved philosophically, and more precisely by appealing to freestanding politics, nonideal approaches must make use of non-political justifications by appealing to economics, social science, and other disciplines. Nonideal mechanisms, therefore, require that we look into political possibility and effectiveness to reach the purported outcome, not simply whether they are morally permissible or not. This emphasizes the transitional role of nonideal theory.\textsuperscript{208}

Simmons uses this argument to respond to Sen’s objection. By maintaining that the value of a nonideal practice depends on how much it helps in achieving the ideal, Simmons maintains that comparing nonideal practices will depend on the ideal we want to attain.\textsuperscript{209} In other words, we can only choose between two nonideal conceptions of justice once we have determined which one provides desired long-term effects and strategic advantages which allow us to ultimately move closer to our ideal. Consequently,

\textsuperscript{207} Simmons “Ideal and Nonideal Theory,” 19.
\textsuperscript{208} Simmons “Ideal and Nonideal Theory,” 19-22.
\textsuperscript{209} Simmons “Ideal and Nonideal Theory,” 35.
nonideal theory cannot be independently pursued without identifying beforehand an ideal to guide it.

What follows from this conclusion is that ideal theory acquires logical priority over nonideal theory. The practical implications of this, however, have been challenged. For instance, while acknowledging that ideal theory has logical priority over nonideal theory, Burke Hendrix maintains that logical priority does not entail temporal priority. For Hendrix, nonideal theory provides limitations that ought to be taken into account whenever considering a conception of justice. Hendrix considers Foucault’s view to offer one set of limitations to the “realistic utopia” Rawls envisions. These challenges arise once we recognize the “self-replication of systems of control” that arises out of the exercise of power. By shaping individuals through directing behavior, strategic power relations appear to determine what beliefs individuals hold. As a result, political criticism is rendered part and parcel of the machinery of power relations. Critique, thus, cannot simply operate in terms of offering an ideal conception of justice, but must develop out of the conception of power we adopt. This casts doubt on the supposition of ideal theory,


211 Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 127.

212 One can maintain a nonideal norm of decentering power without positing an ideal of decentered power. It is not clear that completely decentered power would be an ideal situation. This would depend on the form it would take and whether we can have a complete rejection of relations of inequality. There is a good Hobbesian argument against this, namely form the state of nature as a state of war. Perhaps not every state of nature may be a state of war, but the fact that some might be shows that complete equality in the sense of a total absence of organization is often not desired. Maintaining a basic
especially that of Rawls, that the main political question concerns the central institutions of the state.\textsuperscript{213} This kind of commitment considers that effecting political change must ultimately be in terms of setting laws and fails to recognize that the law is simply one way power is expressed.\textsuperscript{214}

Nonetheless, Hendrix’s use of the distinction between logical and temporal priority is not convincing. Hendrix maintains that given the lack of an ideal conception to pursue following the absence of a unified overall theory, we must begin with nonideal changes that eventually may lead to building up towards an aspired for ideal. But if Hendrix is correct, then nonideal theory would provide the means which allow us to develop a coherent ideal theory, and by virtue of that is not only temporally prior, but also attains logical priority. Ideal conclusions must follow from already determined nonideal ends. Hendrix, however, accepts Simmons’s argument, which renders the logical priority of nonideal theory a conclusion he is not willing to accept.\textsuperscript{215} In contrast, I argue that if we recognize that the production of ideals often ends up propagating social inequality, there is good reason to take nonideal theory to have logical priority. This will become clearer with the argument Mills presents, which I will move to shortly.

But Hendrix also argues that this conception of power suggests an additional limitation. First, if power is propagated through larger organized networks, then dissipating concentrations of force requires fragmented work across various disciplines.

commitment to equality does not entail that all relations of inequality are unjustified, at least tentatively.

\textsuperscript{213} This is also an objection that Sen raises against Rawls, but for my purposes, I will not be engaging this part of Sen’s argument. Sen, \textit{The Idea of Justice}, 10.

\textsuperscript{214} Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 128-29.

\textsuperscript{215} Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 133.
The fragmented nature of this work aims at preventing its development into a unified body of knowledge, which will serve a similar function to already existing networks of power. Consequently, Hendrix recognizes that this should lead us to question our own normative commitments. As Foucault maintains, if power is indeed everywhere, then even critical attempts are submerged in the network of relations of power.

For Hendrix, this should lead to a “deep and systematic skepticism about human cognitive capacities.” The fact that “everything is dangerous” suggests that we must mistrust inclinations and beliefs that we take for granted. Indeed, as Hendrix maintains, a “non-ideal strategy should be a modest one that proceeds only with a strong sense of normative self-doubt.” Recognizing our shortcomings and our inevitable bias as a result of being always situated within a network of force relations requires that we mitigate confidence in our beliefs and instead adopt a skeptical attitude. But, for Hendrix, this means that working for change cannot be systematized or coordinated.

This argument for skepticism that focuses on cognitive hindrances in determining ideals can be complemented by another serious objection to ideal theory raised by Charles Mills. Mills maintains that any kind of ideal theory can serve at best an ideological function. In a Marxist vein, ideal theory normatively conceals and perpetuates the already existing divisions and group privileges present in society, while completely

216 Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 127.
217 Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 131. The question of the degree to which this normative self-doubt should affect our action is an important one that requires an independent inquiry. It is at least clear that this skepticism should not lead to inaction and must also leave open the possibility of resisting under extreme circumstances.
218 Hendrix, “Where Should We Expect Social Change in Non-Ideal Theory?” 131.
overlooking forms of oppression. Mills addresses the question of normative direction by distinguishing between two approaches; “ideal-as normative” and “ideal-as-idealized.” Whereas the former simply appeals to ideals in a normative sense that ought to be pursued, the latter results from abstracting from specific circumstances, which involves simplification. The problem, however, is that ideal-as-idealization often results in representing “the actual as a simple deviation from ideal, not worth theorizing in its own right.” This will often involve, among other things, silence over oppression and an absence of a historical examination of its remnants in the present.

Mills suggests that we alternatively resort to descriptive abstractions as opposed to abstractions that result in idealizations, while making use of idealized norms. These two features are compatible with nonideal theory, while at the same time not succumbing to dominant generalizations that dissolve oppression through beginning with ideal states. For Mills, one main problem that arises with ideal theory is disregarding the cognitive obstacles that accompany any form of ideal theorizing. Given the ideological presuppositions and biases we are prone to make, a “simple empiricism” will not be adequate to avoid falling into idealized abstractions. Being sensitive to the employment of norms that serve exclusionary functions requires including different perspectives, and as Mills maintains, a nonideal perspective may be necessary to derive critical concepts.

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220 Mills, “‘Ideal Theory’ as Ideology,” 168.
221 Mills, “‘Ideal Theory’ as Ideology,” 168, 172.
222 Mills, “‘Ideal Theory’ as Ideology,” 173.
223 Mills, “‘Ideal Theory’ as Ideology,” 176-77. It is worth noting that though non-ideal conclusions can be put into practices more straightforwardly, they are still action-guiding
Mills’s reliance on abstraction as opposed to idealization encounters a problem however. As Erman and Möller argue, Mills’s claim that ideals are inapplicable appears to be empirically false as we often find that idealized norms are applied in local contexts. For instance, there could certainly be spaces where gender equality has been attained, despite still being at the universal level an issue that requires advancement. Idealized notions can, therefore, often appeal to specific existing cases and extrapolate from them rather than simply being derived from illusory ideals. Moreover, Mill’s argument would have more force against an ideal view that is not complemented with a nonideal counterpart. Silence over forms of oppression may result from a strictly ideal view, but issues of oppression will be addressed if ideal theory is coupled with nonideal practices. Yet I consider Mills to have successfully argued for two main claims. First, Mills shows how it is that idealized conceptions can often overlook other perspectives, which becomes more problematic as a result of our zeal to promote our ideal. He, thus, sheds light on the many cognitive obstacles we face when we theorize independently from actual political relations. This further corroborates Hendrix’s claim that advancing normative content must be accompanied by a degree of skepticism. Second, Mills’s argument entails a commitment to the claim that a positive view may emerge out of taking into consideration various perspectives. The content of these perspectives may provide the means to derive more inclusive political prescriptions.

and distinct from practice as they provide the theoretical basis for how we can act under specific circumstances.

224 Erman and Möller, “Three Failed Charges Against Ideal Theory,” 41-42.
225 Referring to different perspectives is also a view that Sen introduces. In The Idea of Justice, Sen argues that judgments about social justice will have to follow from invoking agreement between different groups. Under Mills’s argument, however, engaging
This notion of cognitive obstacles that we find in both Hendrix and Mills allows for raising a major problem for ideal theory. Whereas Hendrix clearly appeals to Foucault, Mills’s view can also be related to Foucault’s position. Foucault’s genealogical work sheds light on practices that have employed “rational” discourses of knowledge in order to refine strategies of domination and maintain exclusionary practices. For Foucault, it is a historical analysis that allows us to recognize the role such practices play, and to account for how rational justifications have been secondary and subservient to practices that have constituted governable subjects. Ultimately, a historical analysis can perform such a role as it serves to delegitimize positive values that have been taken to be rationally true. Though Mills primarily appeals to Marx, his argument can be certainly extended to Foucault, and even developed further. With a Foucaultian argument, normative claims that arise out of such idealizations often serve the function of propagating power relations.

It is crucial to note, however, that this does not involve a rejection of rational accounts altogether. As I have argued in chapter four, Foucault’s historical approach should be contrasted with a transcendental one and not with a rational one. A historical method must also follow rational criteria for determining valid from invalid narratives. If rational inquiry towards ideals may result in mistakenly identifying oppressive prescriptions, it does not follow that a non-ideal view has to break way from rational inquiry altogether. As Habermas notes, that would risk blurring the line between reason different perspectives is valuable on its own even if it does not yield agreement. Sen, *The Idea of Justice*, 104.
and myth.²²⁶ Foucault is clear, however, that a non-ideal approach must also be operating within the confines of the rules of reason. In “Space, Knowledge, and Power,” Foucault rejects the postmodernist tendency to “designate that which has just occurred as the primary enemy, as if this were always the principal form of oppression from which one had to liberate oneself.”²²⁷ (SKP 357) Instead, we should be always referring to reason as a standard, while at the same time being wary of the “intrinsic dangers” that are involved with allowing reason to determine necessary limits.²²⁸ (SKP 358)

Recognizing the many hindrances we face in arriving at an ideal can lead us to develop one normative implication of the view Foucault holds. Foucault’s historical approach provides us with ample empirical arguments for how we are often mistaken when it comes to the ideals we develop. This requires, therefore, endorsing a form of skepticism with regards to one’s own commitments, while recognizing that others may be able to contribute positively by shedding light on the incompleteness of one’s political view. From a Foucaultian point of view, though the views of others may offer different

²²⁷ One could argue that Foucault already shows that animosity towards the present by arguing for “counter[ing] the grips of power with the claims of bodies, pleasures, and knowledges, in their multiplicity and their possibility of resistance.” (HS 157) But Foucault’s argument in that context comes as a suggestion to reverse the mechanisms of sexuality, which his genealogy reveals as having a contingent history. I consider this to be part of Foucault’s endorsement of experimental tactics. Yet, these experiments are bound to proceed slowly and to effect gradual transformations rather than immediate changes.
²²⁸ There’s a broader question that can be asked here having to do with why rational discourse should be recognized as arbitrator if it does not offer us knowledge of the metaphysical world. Responding to this question requires its own inquiry, one that Foucault does not explicitly address. However, one could argue that the canon of reason provides basic minimal requirements for intelligibility, which is why any critique of reason, historical or otherwise, must be rational itself.
perspectives that need not be compatible with one’s own position, such engagement allows for reducing confidence in one’s position, or at the very least for rethinking one’s commitments by negotiating conflicting perspectives. However, pursuing this skepticism in a non-systematic and fragmented manner as Hendrix argues seems to be unjustified. The Foucaultian hope should not be to liberate ourselves from power by advancing fragmented critique, but rather to use power mechanisms strategically for the sake of ameliorating power effects. Foucault shows that making use of such strategies is a precondition for effectively arriving at one’s end. Consequently, it is not the strategies themselves that are pernicious, but the effects they leave behind in the kinds of subjects they produce. Relating these strategies to the endorsement of a form of skepticism does not serve the purpose of eliminating the possibility of action, but rather it aims at being open to receiving the experiences of others. I will refer back to this in the last section of the chapter after arguing for the role of truth in politics.

There is, moreover, one other normative implication we can derive from a Foucaultian view. Foucault’s historical analysis often serves the purpose of undermining networks of present power relations, ones that arise, as he maintains, from relations of inequality. Though this does not imply that inequality is inherently bad, I maintain that we can still derive a negative normative commitment to equality from his work. This appears primarily in terms of delegitimizing differences and hierarchies that are taken to be justified through appealing to truth. By uncovering the historical emergence of discourses of knowledge and identifying the role they have played in perpetuating these inequalities, I take a Foucaultian view to aim at denaturalizing such inequalities. Whereas artificial inequalities may be sometimes justified, naturalizing such hierarchies by
appealing to truth claims is what a genealogical analysis seeks to undo.\textsuperscript{229} Determining which inequalities are justified, however, is a question Foucault does not tackle, one to which we can offer Hobbesian answers.\textsuperscript{230}

I have argued so far that there is good reason to consider nonideal theory as logically prior to ideal theory. This raises the problem of how we can derive normative content from an analysis of the political field. I have suggested two normative implications, endorsing skepticism that results from recognizing the cognitive obstacles that often limit our perspectives along with a negative commitment to equality. This form of equality functions as a constraint on ideal norms that could generate unjustified inequalities. Accepting these conclusions raises a problem for the argument Simmons had introduced. Simmons maintains that we must begin with ideal theory and then consider nonideal practices that have to do with feasibility. Ultimately, however, this argument would work on the condition that we accept that we can arrive at universals ideals through abstracting from particular conditions, a claim we have good reason to doubt due to our limited perspectives. The next section will derive implications with respect to Rawls’s view of stability from the priority of nonideal theory.

\textsuperscript{229} As William Connolly puts it, the governing role of a democratic ethos is “balanced and countered by its logic as a medium for the periodic disturbance and denaturalization of settled identities and sedimented conventions.” William E. Connolly, “Beyond Good and Evil: The Ethical Sensibility of Michel Foucault,” \textit{Political Theory} 21, no. 3 (1993): 379.

\textsuperscript{230} I take the Hobbesian answers to follow from our shared interest in avoiding the state of nature. Obviously, this does not require that we invoke Hobbes’s argument for a sovereign. Though this is an interesting question in its own right, I will not be developing it in this chapter.
Foucault and Rawls – Returning to Politics as War

In the previous section, I have maintained that Simmons’s defense of Rawls fails since we cannot be confident of the reliability of long-term ideals we set, which renders an evaluation of nonideal practices in terms of ideal ends problematic. By referring to arguments presented by Mills and Hendrix, I have argued that certain cognitive obstacles hinder developing ideals independently of practice. On the one hand, as Mills maintains, such ideals will often reflect the experience of privileged groups while discounting those of the underprivileged by considering them to pertain to a secondary sphere, that of the nonideal. On the other hand, as Hendrix maintains, and as I have argued in chapter four, critique can only arise from within power networks, which casts doubt on its long-term justification. Ideals, which result from instances of critique, therefore, cannot fulfill the long-term role both Rawls and Simmons allot to them. I therefore maintain that we can derive a normative dictate of skepticism towards our own views and a negative commitment to equality, one that does not arise out of bestowing equal rights but results from delegitimizing hierarchies. This section will examine the Rawlsian commitment to stability following these conclusions.

As I have argued in the previous section, beginning with ideal theory can only be successful if we maintain that the ideals we set can be guaranteed to be long-term goals that are not exclusionary. This, however, is a claim that cannot be easily defended unless we assume some fixed notion of justice that we can rationally discern and to which we can always appeal. This conclusion is significant when it comes to building bridges between the views of Foucault and Rawls. For instance, Paul Patton argues that Foucault’s account is best understood as compatible with the view Rawls puts forward by
sheding light on the historical nature of normative content in Rawls. I argue that Patton is correct in emphasizing the historical aspect in Rawls’s view, but this does not render Foucault’s account compatible with that of Rawls. To begin with, Patton shows how Rawls maintains that the conception of public reason is shifting and affected by historical transformations. Patton rightly maintains that Rawls holds a conception of public reason that changes according to the emergence of political conceptions. This may be the outcome of changes in the overlapping consensus or in the appearance of new political problems and new political groups. (LP 142) Primarily, Patton takes this change to be the result of the “background culture” which is constantly active in terms of systematizing public conceptions.\footnote{Paul Patton, “Foucault and Normative Political Philosophy: Liberal and Neo-Liberal Governmentality and Public Reason,” in \textit{Foucault and Philosophy}, ed. Timothy O’Leary and Christopher Falzon (Malden, MA: Wiley-Blackwell, 2010), 206-07.} In \textit{Political Liberalism}, Rawls refers to background culture as involving the social, or the culture of daily life, including comprehensive doctrines whether religious, philosophical, or otherwise (PL 14). Patton maintains that for Rawls, the boundary between background culture and public reason is “historically moveable,” due to societal changes that render certain background justifications publicly acceptable or determines that specific public justifications belong to comprehensive doctrines and must slip into the background.\footnote{Patton, “Foucault and Normative Political Philosophy,” 211.}

Understanding public reason in terms of shifting historical content allows for drawing a link between Foucault and Rawls. By arguing for this reading of Rawls, Patton takes Foucault’s view to be consistent with the one that Rawls presents. Patton considers that Rawls introduces historicity into his formal conception of reason. Moreover, Patton

takes Foucault’s account to be congenial to the liberal approach Rawls endorses. \(^{233}\) For Patton, a Rawlsian approach would constitute one answer to the question of the kind of governmentality fit for socialism. Foucault had raised this question in *The Birth of Biopolitics* without offering an adequate response. (BB 94) Patton maintains that Rawls’s normative commitment to egalitarianism, and to Meade’s principle of redistributing property, renders his view compatible with the requirements Foucault introduces. \(^{234}\)

This reading of Rawls casts doubt on the problem Hendrix raises against Rawls. Hendrix had overemphasized the stability of Rawls’s normative conclusions and seems to give little credence to the argument that appears in Rawls’s later work pertaining to the shifting content of the conception of justice. Yet by making his view amenable to historical transformations that can incorporate the emergence of new problems and new political subjects, Rawls renders his position less fixed than the conception of justice he had already put forward in *Theory*.

This shift has significant implications with respect to the account of stability Rawls holds. As I have argued in chapter one, Rawls attempts to introduce stability for the right reasons in order to resolve the Hobbesian problem of depending on an absolute sovereign. For Rawls, stability ensues as a result of appealing to political justifications

\(^{233}\) Patton argues that Rawls should be understood as advocating a form of neoliberalism. One example Patton offers is of Rawls’s endorsement of a negative income tax, which he argues had already been suggested by Milton Friedman immediately after the Second World War. Patton maintains that early neoliberals such as Hayek were also open to liberal socialist ideas akin to the ones Rawls puts forward. However, whether Patton is correct in characterizing Rawls as a neoliberal is not relevant for my argument. Paul Patton, “Foucault’s ‘Critique’ of Neoliberalism: Rawls and the Genealogy of Public Reason,” *New Formations: A Journal of Culture, Theory, & Politics* 80–81 (2013): 45–46.

\(^{234}\) Patton, “Foucault’s ‘Critique’ of Neoliberalism,” 49.
for one’s public views. As Gerald Gauss argues, Rawls’s move towards a freestanding political view that completely separates politics from comprehensive doctrines also leads to a strict division between public and private reason. Rawls argues for a moral duty to provide shared reasons for the political views one holds. In *Political Liberalism*, Rawls invokes a proviso of having citizens “justifying their conclusions in due course by public reasons.” (PL lii) This proviso guarantees for Rawls that stability would be attained once we move away from reasons pertaining to comprehensive doctrines to ones that are solely political, while being intrinsically moral. I will return to a more complete discussion of the division between public and private reason in the next section, but for now, I argue that this move sheds light on a tension between the commitment to equality and the stability that Rawls seeks to achieve.

If we accept Rawls’s proviso with respect to the kinds of reasons we have a moral duty to invoke, then we also would have to account for how transformative movements affect the reasons that citizens hold when new political problems emerge. My contention is that this often involves a reworking of the political reasons to which citizens appeal, and these moments, therefore, affect the degree of stability of society. For instance, continuous efforts to end violence and exclusionary practices that target individuals based on their sexual orientation or gender identity requires reworking public justifications. Though public acceptance of the inclusion of these groups may require reconsidering one’s own comprehensive doctrines, it more importantly requires rethinking one’s public reasons with regards to which members of society matter. In Rawlsian terms, this

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requires that the public boundaries of the group of reasonable and rational people to
whom reciprocity is owed should be reconsidered. Such a revision of one’s position is
bound to weaken the publicly available reasons that are a precondition for the stability
Rawls advocates. This tension arises primarily between a commitment to stability in
terms of shared public reasons on the one hand and the normative dictate of equality with
which Rawls begins. In fact, as I have argued earlier, if equality follows from
delegitimizing hierarchies that are considered to be givens, then a historical reading of
Rawls’s public reason involves recognizing that introducing new political groups and
shedding light on new political problems requires rethinking the kinds of reasons we
hold. Striving towards equality, therefore, will always come at the expense of the stability
of society.

My point is not that Rawls cannot incorporate multiple views on difficult political
matters in his political account, nor am I arguing that Rawls defends the continued
exclusion of political groups. Instead, I contend that rectifying political practices will
necessarily involve destabilizing the Rawlsian political scheme, by Rawls’s own lights,
which offers insight into the nature of politics. Under these terms, the conception of
stability Rawls employs is at odds with the dynamic of politics, even the one he defends
by recognizing the fluidity of the public space with his freestanding political view. If I am
correct, the implications of this argument are twofold. First, at the meta-political level,
this suggests that Foucault is correct in partly analyzing politics on the model of war. I
had argued in chapter four that understanding power relations in terms of
governmentality involves recognizing the material activity of forces that serve a broader
strategic goal. Often, periods of stability can be understood as moments where pragmatic
considerations lead to successfully silencing political groups or excluding individuals from being politically relevant, and thus only gives illusory stability. By recognizing that public reason is constantly being revised and reconsidered, Rawls undermines key presuppositions that he uses in order to guarantee stability.\textsuperscript{236}

The second implication concerns the significance of stability in relation to the meta-political conclusion I have presented above. Does this imply that we are always in a Hobbesian state of nature when we are politically engaged? There’s a sense in which Rawls is correct in thinking that we can have more or less stability. However, Rawls’s ideal stability condition appears to preclude working towards equality, which is one of the two normative commitments Rawls specifies for his project. By specifying overlapping consensus among comprehensive doctrines as a condition for stability, Rawls would have to recognize that the inclusion of new groups will undermine this overlapping consensus and thus stability. I do not deny that we can have more or less stability in a society, nor do I contend that periods of stability are always unwanted. The conclusion to draw instead is that a nonideal political view must negotiate the demand for stability with that of equality. This casts doubt on being able to derive an ideal that can entirely satisfy both at the same time.

How, then, can we argue for stability? The Hobbesian argument for justifying obligations proves to be useful here. Hobbes’s argument for political obligations towards

\textsuperscript{236} Understanding the political dynamic in terms of continuously supplementing the social body with excluded groups under the dictate of equality is in agreement with the view that Rancière endorses in his characterization of politics. Following a Foucaultian view, however, I contend that politics ought to be understood more broadly in terms of tactics and strategies that constitute subjects. Jacques Rancière, Davide Panagia, and Rachel Bowlby, “Ten Theses on Politics,” Theory & Event 5, no. 3 (January 1, 2001), https://doi.org/10.1353/tae.2001.0028.
others in our society remains sound even within a democratic context. Though we may reject Hobbes’s appeal to the sovereign in order to guarantee stability, we may still justify the need to arrive at some stable scheme by appealing to the argument from the state of nature. Following the argument I offered earlier in the chapter, this need not involve a universal normative dictate for stability. Stability may often be undesirable when it comes at the expense of incorporating marginalized groups. The relevance of attaining political stability will depend on the political problems we face, which become clearer upon pursuing a historical analysis. If stability is indeed desired in order to ward off a condition of war, Hobbes’s view offers insight. Given that, in the absence of a state that is capable of channeling individual passions, we often slip into a state of war, obligation towards other members of the community arises out of prudential considerations pertaining to the fear of death and desiring a commodious living. This argument need not develop in an a priori form as it does with Hobbes, and instead, could simply result from an empirical claim about how we often behave in the absence of regulations given our historical and material conditions. I therefore argue that we should begin with recognizing how we are materially constituted and then move to justify strategies conducive for stability. Under this reading, normative claims are justified as hypothetical imperatives, but the hypothetical imperatives will themselves depend on the historical conditions that constitute the political problems at hand. Specifying normative obligations, then, would follow from adopting specific prescriptions that lead away from a chaotic state toward a more stable society. These prescriptions, however, as I have

237 As I have argued in chapter two, this argument is not inconsistent with the position Foucault puts forward, but only offers a different perspective on political analysis that begins with conditions of equality.
argued above will be limited by a negative argument for equality derived from Foucault’s work.

These normative commitments must also be kept in check in relation to the skeptical attitude I have suggested above. On the one hand, this entails that all the commitments we derive out of hypothetical imperatives must be revisable not merely in principle but also in practice. On the other hand, endorsing the skeptical attitude also involves recognizing that the target of political strategies will frequently be the beliefs of individuals. As I will show in the next section, accepting that political action should aim at transforming the beliefs of individuals by invoking skepticism will have certain consequences on the divide between public and private reason to which Rawls subscribes.

**The Public/Private Divide**

As I have argued in the previous section, invoking a conception of stability that is based on historically determined shared public reasons conflicts with the dictate of equality. Moreover, the question of normative justification can also lead to a second problem that emerges with Rawls’s ideal theory, one that pertains to stability in relation to truth claims. As I will show, the position Rawls endorses limits political intervention and does not allow for critical engagement with citizens’ beliefs. This is most clearly exemplified in differences with regards to historical truth claims, which Rawls does not consider. I argue, therefore, that jettisoning the divide between public and private reason is a more fruitful approach.

To clarify the role of truth claims in politics, I begin by borrowing a distinction that Hannah Arendt introduces. In her 1967 essay “Truth and Politics,” Arendt distinguishes
between the rational truth of philosophers and factual truth. The former is similar to mathematical truth by its capacity to compel assent, whereas the latter is a more vulnerable form of truth that has deep political implications. Rational truths, for Arendt, are not at risk of disappearing once publicly rejected. On the one hand, Arendt accepts the view she attributes to Hobbes that, like mathematical truths, philosophical truths that do not have a bearing on the political life do not rouse the suspicion of the public. On the other hand, though rational philosophical truths can be publicly denounced, they still resurface at later moments, as we find with Galileo’s views for instance. Factual truths, alternatively, are vulnerable to complete erasure if they are countered with lies.

For Arendt, deliberate falsehoods and organized lying in politics primarily serve to abolish such factual truths, which are basic truths of history. Unwelcome factual truths are thus shifted to the realm of opinion, and can be simply disputed by deliberate falsehoods when uttered publicly. For Arendt, these truths are of the utmost political significance, as they have a direct bearing on the current political situation. Yet, unlike rational truths which have a transcendent element, a safe haven that shields them from public criticism, factual truths exist strictly publicly. The absence of such a transcendent trait in factual truths implies that their public denial results in their disappearance. As a result, political manipulation can operate simply through the systematic denial of such truths in order to put together a different historical narrative.

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238 Though this briefly alluded to in chapter three. As Skinner maintains, Hobbes acknowledges the need for using rhetoric in *Leviathan* as he comes to recognize that philosophical claims will not be sufficiently motivating.


240 Arendt, "Truth and Politics."
Consequently, for Arendt, the historian’s task is to take these facts in their simplicity and arrange them to constitute a narrative, while leaving the facts themselves unscathed. Arendt expresses an optimism that identifies in truth a durability that we do not find in deliberate falsehoods. Manipulative lies will always be inadequate upon proper scrutiny, and will require replacement with new lies. It is up to independent scholars to guarantee that the truth always surfaces, and that unwelcome truths prevail over deception. This is where the historian intervenes and assumes a role that is “outside the political realm” in its disinterestedness, but it is a role that simultaneously has the political function of preserving facts.241

The role ascribed to the historian marks a significant divergence from the view Foucault holds. Whereas Arendt considers that historians primarily should occupy an impartial position that allows for transmitting objective truth claims to the public, Foucault does not consider truth claims to transcend political strategies but are rather embedded in them. Yet what is of interest for my argument here is not Arendt’s claim that factual truths ought to be preserved, but rather her clear statement that factual truth claims often serve a political function.242 This leads to two main issues in relation to Rawls with regards to the role he allots to truth. First, as I have shown in chapter one, Rawls accounts for political difference primarily in terms of commitment to

241 Arendt, "Truth and Politics."
242 Specifying precisely the role that truth plays in politics is a question that is beyond the scope of this paper. Chiara Bottici, for instance, argues that dramatized historical narratives acquire the role of political myth that confer significance on political decision and often relate to futural ideals. Such myths are not strictly limited to the theoretical, but also entail an injunction to act in accordance with such ideals. Chiara Bottici, A Philosophy of Political Myth (Cambridge: Cambridge University Press, 2007), 210, 217, 222-24.
comprehensive doctrines. In fact, in his later work, Rawls explicitly specifies that political liberalism deals with one kind of disagreement only, that arising between comprehensive doctrines. (LP 177) Comprehensive doctrines, for Rawls, include Arendt’s rational truths, but they are not reducible to them. Rawls takes any doctrine, whether philosophical or religious, to constitute a comprehensive view that cannot be included in justifying agreement. As Arendt shows, however, political disagreement often does not pertain to such metaphysical beliefs, but materializes instead in conflict with respect to factual historical truths.

It should be clear that Arendt’s distinction can be used in tandem with the view Foucault develops. As I have argued in chapter two, Foucault’s conception of politics involves recognizing the function of agonistic material forces, ones that often function by targeting historical narratives. Like Arendt, Foucault recognizes that the construction of historical narratives has significant political implications. The exposition Foucault offers in *Society Must be Defended*, with regards to the use of history as a weapon and the appearance of the race war discourses most clearly shows how the different uses of historical truths serve a political function. (SMD 59-60, 216-17) However, instead of ascribing an objective role to the historian, Foucault recognizes that historical constructions are often motivated and goal-oriented. By virtue of offering a historical account, factual truths are transformed, and narratives of blame come to be put forward. Whereas it is certainly the historian’s task to preserve factual truths, by engaging in the act of constructing narratives, the historian does more than assume a disinterested role and is involved in a strategic political game.

How amenable is this analysis of disagreement to the view Rawls endorses? As I have
argued in the previous section, Patton rightly takes Rawls to maintain that nonpolitical reasons, or reasons appealing to comprehensive doctrines, may play a role in influencing citizens. (PL 60n13) Indeed, the moral power of reasonableness Rawls allots to citizens as a requirement for being motivated and engaged in politics renders their commitment to nonpolitical reasons necessary. Fleshing out the implications of accounting for historical truths in politics requires that I first introduce the role Rawls allots to private and public reason, especially in his later work.

As I have shown in chapter one, Rawls repeatedly emphasizes that the political question is one that marginalizes truth in favor of reasonableness. Yet rather than simply dismissing truth as irrelevant, Rawls’s “The Idea of Public Reason Revisited,” which was published in 1997, introduces a more complex view of the role of comprehensive doctrines. In this essay, Rawls clearly specifies that unless comprehensive doctrines are unreasonable, their content is not subject to scrutiny or criticism by appealing to publicly accepted justifications. (LP 132) Nevertheless, whereas in his earlier Kantian work Rawls had completely separated the questions of truth and politics, in this later essay he is more careful about excluding truth. Rawls maintains that “the zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship.” (LP 133, my emphasis)

What demands does Rawls place on citizens then with respect to the justifications they use? To begin with, Rawls argues that the proviso of public reason does not apply to all political discussions, but only to the discourse of judges, government officials, or candidates for government officials. (LP 133) This suggests that truth claims derived from comprehensive doctrines are allowed to serve a function within political discourse,
especially in the background culture where non-political reasons may be invoked. (LP 134) However, Rawls maintains that in relation to the idea of public reason, the ideal of public reason also applies to citizens and is only fulfilled when they satisfy their duty of civility. As in *Political Liberalism*, Rawls maintains that the duty of civility is not a legal obligation, but morally requires that citizens view themselves as if they were legislators. Accordingly, citizens must refrain from including reasons pertaining to comprehensive doctrines in political matters. (LP 135) Consequently, justifying one's view must appeal to political reasons strictly. (LP 153-55) The main justification Rawls offers for this conclusion arises from his commitment to reciprocity. Rawls maintains that our moral duty as reasonable citizens dictates that we offer public reasons that other citizens would accept only if they are convinced, and not due to any pressure that results from occupying an inferior social position. (LP 137)

To further clarify the justification requirement, Rawls maintains the proviso he specifies in *Political Liberalism*, as he argues that comprehensive doctrines may contribute to the public discussion on the condition that “in due course, we give properly public reasons to support the principles and policies our comprehensive doctrine is said to support.” (LP 144; PL lii) Moreover, as he did in his earlier work, Rawls contends that a commitment to comprehensive doctrines is required to motivate citizens, and by virtue of that, motivation is not simply shifted to political reasons. Consequently, though justification must appeal to political reasons, citizens may still recognize that what grounds their political views are comprehensive doctrines. Ultimately, we may be motivated by comprehensive doctrines to pursue specific ends, but we are also motivated by reasonableness to ensure that we provide reasons that can be accepted by others in the
public space. For Rawls, though this may not lead to agreement, we still arrive at “a
shared public basis of justification.” (LP 172)

Whereas Rawls insists that the “whole truth” may not enter into the public sphere,
he still recognizes that citizens’ political opinions should be subject to change upon
discussion with others. (LP 138-39) However, given Rawls’s claim that motivation may
often refer to comprehensive doctrines and not political reasons, changing opinion is
likely to be very limited in scope. To clarify, it is unclear how my view on a certain
political matter can change as a result of conversing with others if I am primarily
motivated by a comprehensive doctrine. Any political reasons I am offered will not
challenge my philosophical or religious commitments.

Rawls, consequently, allows for truth claims to play a role in shaping political
views while excluding them from public criticism. If I can be motivated by
comprehensive reasons, then my beliefs contribute to the political views I come to hold.
Rawls’s view, however, by virtue of insulating comprehensive doctrines discounts the
need for critically engaging beliefs resulting from those doctrines. This leads to the first
problem that arises with excluding historical truths from political disagreement. Rawls
does not take into consideration the role such narratives play, but it would follow from
his argument that they hold the same status as comprehensive doctrines. Rawls excludes
comprehensive doctrines from public reasons given the unlikelihood of arriving at
agreement with respect to their dictates. It is arguably a similar case with historical
narratives, which often do not constitute a basis for agreement. Accordingly, Arendt’s
factual truths under a Rawlsian scheme would be relegated to the private sphere.
Nonetheless, given that, as both Arendt and Foucault show, historical truth claims play a
significant role in shaping political affiliations, political intervention then must act on the beliefs of citizens with regards to those truth claims. Rawls, however, does not allow for critical engagement with such beliefs given that they are relocated to a private sphere immune to criticism. In contrast, allowing these beliefs public expression will enable critical scrutiny of claims to factual historical truths. As I have argued in the previous section, recognizing that political motivation arises from beliefs implies that political intervention should act on those specific beliefs. This is why inculcating skepticism should lead to mitigating the antagonism arising from disagreement with regards to these beliefs. This partly follows from engaging the truth commitments of others and, as Mills argues, recognizing the value of including the perspectives of others.

But Rawls’s view with regards to truth generally has also been subject to a Hobbesian criticism. As Gerald Gauss argues, liberalism fails to respond to a challenge Hobbes raises, namely that disagreements arising out of private judgments will infect the public sphere. This is why Hobbes resorts to the sovereign as the arbitrator in order to avoid collapsing into the state of nature.243 Gauss attributes to Hobbes the view that private reasons for disagreement will spill over to the public sphere since we are passionate individuals who are bound to be biased. Accordingly, a Lockean distinction between private and public becomes irrelevant.244 Whereas Locke’s response invoked tolerance to all groups that recognize tolerance as a basic political tenet, Rawls’s appeal to overlapping consensus in *Political Liberalism* originally aims at avoiding the

insulation of the private from public influence as we find in Locke. If overlapping consensus on reasonableness and rationality is already actual, we can simply follow its dictates without jeopardizing the private beliefs of citizens.\(^{245}\)

Gauss argues, however, that Rawls retains several theses that render his account inconsistent. On the one hand, Rawls argues that full justification must appeal to both shared reasons as well as reasons arising from comprehensive doctrines.\(^ {246} \) On the other hand, in *Political Liberalism*, Rawls also accepts that the public reasons to which we can appeal will include a family of reasonable liberal conceptions of justice. This entails recognizing that disagreement will not be limited to the private but is already present in the public sphere. For Gauss, Rawls’s appeal to overlapping consensus attempts to limit the implications of disagreement by maintaining that reasonable comprehensive doctrines already agree on basic principles and values. As long as private judgments do not conflict with shared principles, the basic structure of society will be stable due to overlapping consensus. However, given that Rawls endorses in his later work the view that the fact of reasonable pluralism also applies to the shared reasons, overlapping consensus fails to achieve the goal of identifying shared principles.\(^ {247}\)

Ultimately, Rawls returns to the insulation principle that we find in Locke, for though private judgments do matter in justification, the strict separation between the private and public is strongly reintroduced. Nevertheless, Rawls insists that full justification can only follow from shared principles and comprehensive doctrines. However, since both spheres involve disagreement, this precludes identifying legitimate reasons in terms of a shared

\(^{245}\) Gauss, “Public Reason Liberalism,” 118, 125.
\(^{246}\) Gauss, “Public Reason Liberalism,” 129.
basis. As Gauss notes, it is ultimately unclear why the distinction between the two is maintained if we accept overlapping consensus.\textsuperscript{248}

As I have argued above, Rawls’s view in “The Idea of Public Revisited” no longer consists of offering both kinds of justifications, political and comprehensive, but primarily restricts justification to political reasons. Gauss’s argument is still sound, however, given that the problem arises from accepting the fact of reasonable pluralism in the public sphere, instead of limiting it to private reasons. Rawls accepts the consequences of disagreement within political reasons, and consequently, argues for a shared \textit{public basis} for justification instead of shared reasons. But as Gauss notes, if we accept Rawls’s overlapping consensus, then that shared basis is already present within comprehensive doctrines, which is why the division between public and private becomes redundant.\textsuperscript{249}

Consequently, Gauss offers an alternative that seeks to dispose of the divide between public and private altogether so that comprehensive doctrines in their diversity can partake in arriving at public rules.\textsuperscript{250} The problem, however, is that Gauss strongly relies on overlapping consensus in comprehensive doctrines. In the absence of this assumption, Gauss’s solution will lead to problems for minority groups, especially since it would allow for introducing religious justifications in legislation. Gauss, however, appeals to the Hobbesian argument to which I have referred in the previous section. For

\textsuperscript{249} Rawls’s appeal to translating reasons pertaining to comprehensive doctrines to publicly acceptable reasons does not resolve this problem. In the absence of agreement over those public reasons, which Rawls admits, translation will not lead to a shared basis that would allow for communication. (LP 170n82).
\textsuperscript{250} Gauss, “Public Reason Liberalism,” 134.
Gauss, attempting to impose unjust constitutions or to reject policies based on private interests will be precluded by an argument from the state of nature. Such practices can only follow if one deems the alternative unjust to the extent that they would “rather forgo the tremendous benefits of a morally ordered social life.”

Gauss does not develop his argument fully, but as it stands his response is still susceptible to criticisms with regards to avoiding discrimination in legislation. Arguing that unjust legislations would not occur because parties will be aware of the risk of slipping into the state of nature is problematic, since it also entails that a minority group’s attempts to reject or veto discriminatory legislation will have to go through the same argument. In other words, such a group would also have to consider that invoking a veto to preserve equal treatment may lead to a state of nature, which may clearly result in perpetuating injustices under the threat of societal collapse. Ultimately, therefore, Gauss must appeal to distinctions that Rawls introduces, mainly that there is a reasonable overlap between comprehensive doctrines that entails a commitment to reciprocity. In the absence of this overlap, it is difficult to determine how this view can be sustained.

One advantage Gauss’s reading offers, however, is strongly allowing for reintroducing truth into politics. The goal is not to overturn the Rawlsian insight by recasting the political question as one that appeals to truth rather than being merely procedural. Rather, allowing truth claims to operate in the political realm renders those claims susceptible to critique. This view endorsed by Gauss can also be linked to Foucault’s argument with regards to skepticism. Foucault shows us how political intervention occurs by targeting the beliefs of members of the community and altering

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their commitments to truth. For Foucault, then, one way of effecting political critique is by weakening the confidence individuals have in their beliefs. Rather than instilling specific truths pertaining to historical narratives in individuals, critique serves the purpose of weakening the rhetorical force of such narratives. This is where inculcating skepticism in members of the community becomes useful. The emphasis on being skeptical towards one’s own view leads to mitigating antagonism and replacing it with an agnostic engaged politics that does not set aside truth, while simultaneously avoiding transforming the political question into one of attaining truth. This skeptical outlook should also serve the purpose of resolving the problem we find in Gauss. Rather than relying on a reasonable overlap between comprehensive doctrines, instilling a disposition to be skeptical with regards to one’s own beliefs, while retaining a basic commitment to equality, serves the purpose of avoiding tendencies to exclude and oppress minority groups. Ultimately, whether these practices will succeed in defending oppressed groups will depend on how effective strategies are in targeting the beliefs of individuals. I consider that a Hobbesian argument from avoiding the state of nature will often be effective in justifying the appeal to strategies for alleviating antagonism through instilling dispositions. Furthermore, instilling dispositions will have to involve channeling the passions of individuals in order to constitute virtuous individuals that have a propensity towards peacefully engaging with others.

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252 I have argued for this Foucaultian conclusion earlier in this chapter, page 186.
253 One problem that may arise with my view concerns the use of strategies to inculcate peaceful dispositions in individuals, which may be mistaken for indoctrination or even brainwashing. However, my view has the advantage of inculcating such dispositions through making use of skepticism. I, therefore, avoid this problem by emphasizing the goal of skepticism, which is not to encourage belief in a specific set of values or in a
Foucault had already articulated a rejection of the divide between public and private reason on Kantian grounds. In his 1982-1983 lectures *The Government of Self and Others*, Foucault states

> You can see that *Aufklärung*, and Kant says this, is the exact opposite of “tolerance.” What is tolerance in fact? Tolerance is precisely what excludes reasoning, discussion, and freedom of thought in its public form, and only accepts it—tolerates it—in a personal, private and hidden use. Aufklärung, on the contrary, gives freedom the dimension of the greatest publicity in the form of the universal, and it maintains obedience only in this private role, let’s say in this particular, defined individual role within the social body. (GSO 36-37)

Whereas both the Lockean and the Rawlsian demands for tolerance lead to requiring obedience in the public realm and restricts free thought to the private sphere, Foucault points out that the dictates of Kant’s notion of the Enlightenment involve rendering obedience merely private, whereas a free exchange of ideas is allowed in the public sphere. Under this conception, one can justify a political position without appealing to a shared basis. This conception of freedom in the public sphere, therefore, jettisons agreement altogether, or at least renders it unnecessary.\(^{254}\)

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\(^{254}\) In a 1983 interview, Foucault states, “[t]he farthest I would go is to say that perhaps one must not be for consensualism, but one must be against nonconsensuality.” Foucault asserts that one way to question power relations is in terms of the nonconsensuality involved in that relation, while distancing himself from recognizing consensus as a regulative ideal. Of course, Foucault has to provide an argument for why nonconsensuality is problematic, which he does not do. Though agreement from an ideal perspective is not necessarily problematic, it is far from clear that it is necessary for
The view I am proposing may be criticized for being more demanding than the one Rawls puts forward. Sidelining truth, for Rawls, follows from the unlikelihood of ever arriving at agreement with respect to comprehensive doctrines. This is why truth is replaced with reasonableness and hypothetical agreement. I consider, however, that my view is less demanding for two reasons. First, the primary problem with Rawls’s position is his emphasis on agreement, whether it is on the content of the conception of justice as we find in Theory, or on a public basis for justification as developed in “The Idea of Public Reason Revisited.” Alternatively, I avoid presupposing actual agreement and instead argue that agreement does not play a significant role in arriving at stability. One can accept that political justifications should involve reciprocity without appealing to agreement. The fact that reciprocity could be a basic presupposition for an ordered community and for rendering political dictates intelligible does not necessarily mean that everyone in fact does hold it to be valid. The political problem would then concern the employment of strategic mechanisms that would inculcate virtues in these individuals conducive for such reciprocity. This will primarily involve having them question their unchallenged belief in the inherent rights or superiority of one group over another. Therefore, questioning problematic underlying beliefs does not have to follow from accepting reciprocity. These beliefs will be challenged publicly by rational argumentation once they are allowed into the public sphere. Consequently, accepting reciprocity may be a result of such agonistic interaction rather than a precondition.

Rejecting agreement as a basis can be justified even on Hobbesian grounds. As I have argued in chapter three, consent does not contribute significantly to Hobbes’s argument given his commitment to a deterministic view that subscribes to a broad conception of voluntary action and since he recognizes sovereignty by acquisition to follow from consent. If this is the case then a political conception that arises out of agreement, whether actual or hypothetical, becomes irrelevant. What is more relevant for Hobbes is arriving at stability to end the state of war beginning from an analysis of the passionate behavior of human beings. Under this view, even the normative dictates of skepticism and equality need not be agreed upon, and instilling them does not have to follow from everyone’s acceptance.255

Second, the position I advocate is also less demanding as it does not presuppose any convergence on core liberal values in order to produce stability. Consequently, rather than require, as Rawls does, that citizens meet the demands of publicity through altering the kinds of justifications used to reflect only political reasons, I contend that we should allow the free exchange of ideas publicly. As a result, rather than making stability depend on meeting the demands of publicity, I consider that, when stability is indeed desired under certain historical circumstances, a Hobbesian argument suffices, coupled with developing the two normative dictates of skepticism and equality.256 Though, ultimately, perpetuating these norms may result from the role of institutions, their justification can be developed primarily from a Hobbesian-Foucaultian line of argument. In contrast, as I

255 Specifying basic conditions for a satisfactory society would involve delving into ideal theory, which I have argued is problematic. It suffices to say that mere stability will be far from sufficient, and may become a priority in cases where conflict, or an inclination to conflict, has become problematic.
256 I argued to these normative claims earlier in the chapter, pages 185-86.
have shown in chapter one, justification of norms in Rawls’s view ends up being entirely dependent on what values institutions inculcate.

**Conclusions**

This chapter has argued in favor of an engaged politics that allows for critically scrutinizing the beliefs of individuals, whether religious, philosophical, or historical. By pursuing a Foucaultian-Hobbesian nonideal approach, I have argued that nonideal theory sets limitations on an ideal view by recognizing cognitive limitations, which render arriving at long-term ideals far-fetched. I have argued that we can derive from Foucault’s view a normative requirement of equality along with a skeptical attitude with regards to one’s own beliefs.

I maintained that this leads to two implications. On the one hand, we can derive a meta-political conclusion by highlighting a tension between the demands for equality and stability to which Rawls subscribes. This leads to understanding politics partly on the model of war as political discourses often involve underlying mechanisms that have strategic goals, which aim at disrupting stability in order to allow for the inclusion of political groups. As Foucault maintains in *Society Must be Defended*, politics is to be understood as the continuation of war by other means. Recognizing that politics often follows the war model, however, could be coupled with justifying the requirement of stability based on a Hobbesian argument. The second implication pertains to the role Rawls assigns to truth in politics. I have argued that Rawls, first, fails to recognize the relevance of historical beliefs in politics, and second limits political intervention by not allowing critique to target individual beliefs. By following a Foucaultian line of argument, however, I have argued that political intervention is most effective when it
focuses on truth claims. By maintaining that the divide between the public and the private in Rawls is redundant, I argued for allowing truth claims to play a public role in order to render them susceptible to public criticism. I have maintained that we can avoid the complications that follow from eliminating the public-private divide by accepting a number of normative commitments. On the one hand, we should accept a Foucaultian approach that is open to receiving the views of others and that avoids dogmatic assertions through pursuing skepticism and recognizing equality as a normative demand. On the other hand, I have shown that a Hobbesian argument to avoid the state of nature guarantees that we maintain some degree of stability by inculcating virtues in individuals. The normative dictate for stability, however, need not be recognized as universal, and will depend on historical circumstances in specific communities. Often, stability will have to be undermined in order to rectify injustices and exclusionary practices. Ultimately, this more engaged form of politics reduces antagonistic tendencies by mitigating dogmatic commitments to truth.
Conclusion

The extent to which the model of contract can offer insight with respect to legitimacy and actual political relations depends on the degree to which we take actual, rational, reflective agreement to contribute to determining political relations. I argued throughout the dissertation that this conception of politics masks the underlying apparatuses that have a significant bearing on determining the limits of such active and rational reflection. Consequently, accounting for political justifications must be informed by actual political practices that determine these limits and recognize the historicity of political problems. As I argued, one way of accounting for such phenomena is by introducing a view of power that acknowledges such limits through understanding how we are influenced by material processes. Political goals would, therefore, be more adequate if they are concerned with short-term solutions for problems rather than offering an overarching normative goal that determines a general direction. This opens the space for addressing a number of related concerns pertaining to what constitutes adequate justification, how we are to conceive of criteria that demarcate objective knowledge from irrational forms, and what role intersubjectivity plays in establishing the basis for meaningful political analysis.

In chapter one, I argued that assigning normative weights to political dictates independently of relying on a philosophical basis and by relying either on a hypothetical contract or an actual overlapping consensus is unable to justify its normative conclusions. Rawlsian political liberalism has to either commit to a nonpolitical basis to account for why it is that certain conclusions are more compelling than others, or remain amenable to a plurality of “reasonable” views, while lacking a sufficient grounding. Rawls’s
commitment to the latter leaves him unable to respond to problems he identifies in Hobbes pertaining to what constitutes an acceptable social role for politics, how we arrive at a stable society, and what views should be included in a reasonable community.

Chapter two moves to introduce a critique of Hobbes that arises out of a Foucaultian analysis. I argued that a common thread that ties the Foucaultian and Hobbesian views of power can be located in their commitment to materialism. I argue that the basis of Foucault’s critique of Hobbes can be primarily cast in terms of the different starting point Foucault chooses for the analysis of social relations, that of inequality. Foucault, therefore, offers a rich analysis of power relations that recognizes that bodies are already imbued and affected by force relations that strategically constitute the limits of possibility of action and thought. This allows for developing a robust conception of power that arises out of a Foucaultian-Hobbesian identification of a material basis for our social relations.

Chapter three argued for endorsing a material reading of Hobbes by bridging the gap between his materialism and his politics. I have rejected a skeptical reading arguing that Hobbes should be understood as a metaphysical skeptic, and which advocates for a freestanding politics on that basis. Hobbes can only justify his political conclusions by appealing to a metaphysically material basis that allows for an analysis of the passions, which, in turn, allows us to understand how humans behave and to identify ways to render such behavior obedient. For Hobbes, this analysis can only arise out of recognizing ourselves as corporeal entities that deterministically respond to physical stimuli. Accepting this line of argument leads to downplaying the language of consent we find in Hobbes. Consequently, by emphasizing a drive for self-preservation coupled with
fear of death along with the interaction with other passionate subjects concerned about their own preservation, Hobbes’s argument for instituting the state does not lead to actual or hypothetical consent, but emerges as a deductive argument that answers the question of what political organization is conducive for our survival at the moment.

Following the reading of Hobbes as a materialist, chapter five argued that like Foucault, Hobbes recognizes the productive effects of power that constitute subjects capable of obeying sovereignty. For Hobbes, this is primarily justified by appealing to conatus, which grounds the passions and offers the means by which political tactics can be effective. The key difference between Hobbes’s view and that of Foucault is, therefore, the latter’s rejection of a metaphysical basis for his political view. I argued that Foucault effectively transforms the material analysis from a metaphysical one to one that relies on history. I maintained that Foucault is concerned with answering the Kantian question of what constitutes the conditions of possibility of knowledge. However, rather than appealing to a transcendental subject, Foucault is committed to a form of empiricism that takes historical analysis to allow for offering the sufficient conditions that make knowledge possible while allowing for critique to occur by unmasking the contingency of what we consider to be self-evident.

Finally, the implications with respect to Rawlsian contractarianism are numerous. I argued that the Foucaultian-Hobbesian analysis leads to privileging a non-ideal approach over an ideal approach. I argue that, given the cognitive obstacles that we encounter while determining long-term ideals, we are more justified in working towards more immediate change by encouraging an attitude of skepticism. By arguing for a basic equality that arises out of denaturalizing social hierarchies along with recognizing that the
basis upon which we lean is often more fluid and less necessary than we take it to be, we ought to identify means that reduce dogmatism by mitigating confidence in our own views. This introduces an agonistic understanding of politics that maintains the need to critically engage the beliefs of citizens, and thus leads to undoing the divide between public and private reason. In a Hobbesian sense, maintaining this attitude of skepticism will have to involve cultivating virtues in citizens that are conducive for peaceful inclinations that replace antagonistic tendencies. However, though some degree of stability is generally desired, it falls short of being a universal dictate, as undermining stability may often be required in order to render the social body more inclusive. The sought-after goals will be determined primarily by appealing to the historical emergence of political problems rather than abstract universal ideals.

As I have argued, undoing the distinction between the public and private sphere makes possible an agonistic politics that goes beyond the mere expression of belief systems in politics. If politics is to be recognized as involving tactical and strategic moves that aim at perpetuating or reversing unequal social relations, then a free engagement of ideas constitutes a more adequate position that renders possible such transformations. Once we recognize that narratives, historical or otherwise, play a significant role in determining political allegiances, the question that follows pertains to the means by which we can weaken such convictions.

Ultimately, resolutions for political problems cannot be prescribed independently of the historical conditions in which the problems emerge. Historical conditions not only allow us to understand problems within their context, but more importantly enable us to recognize that political problematizations are constituted by their context. These
conditions make possible the emergence of specific questions, organizations, and prescriptions, all of which have to be understood as circumscribed within apparatuses that operate in relation to bodies of knowledge. Universal prescriptions, therefore, are bound to be insufficient given that they exclude the role of history, and thus neither offer the means by which they can be applied nor result from recognizing the deep-rooted nature of historically cultivated inclinations and the contingent aspects that allow for forming bodies of knowledge.

The alternative I put forward is committed to a non-ideal approach that recognizes that political strategies primarily take as their targets the material constitution of individuals, whether as mere bodies or as bodies imbued with a life that must be governed. Governing individuals has among its effects inculcating dispositions and habits by emphasizing efficiency, productivity, and rational classification that distinguishes the normal from the abnormal. Often, this results in the development of the ‘modern’ passions along with their role in producing political conflict. Power effects, however, are not limited to affecting our passions while leaving intact a disinterested faculty of reasoning. Rational inquiry is itself limited by historical conditions, discursive or otherwise.

Two consequences follow. First, given that the passions of individuals are effects of the interplay of forces, then political normativity is bound to be understood in terms of inculcating specific virtues that render an engaged politics possible. Rather than offering a justificatory basis, consent can only play a retroactive role as it only arises as an outcome of the cultivation of virtues. Consequently, I’ve suggested that consent be abandoned as a basis for political normativity. This conclusion has a bearing on liberal
views that endorse variations of contractarianism, all of which arguably rely on voluntary agreement as a basis.

Second, though the idea of a science of politics has already been abandoned for some time, my conclusion vindicates the Rawlsian view that political prescriptions must not be based on commitments to truth. Instead, they must be primarily procedural. Accounts of truth are bound to affect group commitments, which means political critique must certainly engage truth claims. However, the ultimate goal of politics will not strive to arrive at a final truth with regards to the political question, but must primarily aim at negotiating demands of inclusion under the basic dictate of equality while striving to avoid societal collapse. Inclusion must not follow the model of tolerance, where religious, philosophical, or historical beliefs play an important motivational role while being insulated from criticism in a private realm. Instead, given that consent cannot constitute the basis for this proceduralism, a free critical engagement with the ‘private’ views of others must be allowed. The basic demand for equality implicitly entails that groups that are committed to exclusionary discourses do not rise to power, though they be allowed public expression of their views. Strategically, the best way to guarantee that these groups do not attain power is by allowing them to be publicly expressed for scrutiny. Merely allowing public expression, however, will not suffice for stripping the rhetorical force of such discourses, which is why tactics that work on the passions of individuals, possibly by shaming those who hold such belief systems have to also be active.

Furthermore, acknowledging our materiality involves accepting a form of political naturalism that reduces what we take to be an active transcendental ego to a mere
organization of forces, an organism that a long time ago developed an ability to organize
and classify. This certainly has no bearing on the normative implications. To endorse a
naturalized understanding of ourselves ought not entail the prescription that we dispose of
our normative commitments, but instead to recognize that different conditions will
require that we resort to different solutions. This is the most straightforward conclusion
that results from rejecting the elevated status of historical origins. The ramifications of
this realization is that political notions that have acquired rhetorical force such as liberty
and equality do not possess any intrinsic value, but are often merely introduced
retroactively in order to structure and organize already existing unequal social relations.
They are often invoked by rendering intelligible political structures that are already active
and identifying normative goals in terms of aberrations that do not fit into our coherent
arrangement.

The alternative non-ideal approach must be at the same time more modest and
more ambitious. It is more modest in identifying minor targets that could slowly lead to
change rather than argue for overhauling our social organization while using a theoretical
model. It is also more modest in recognizing that the intelligible structures we invoke to
theorize about politics are the product of limited perspectives that are rooted in material
conditions. Not only do these conditions overdetermine our current state of affairs, but
also the degree to which we can constitute knowledge claims and ideals. Consequently,
the non-ideal attitude will also be more ambitious in attempting to move beyond
entrenched structures by shedding light on historical contingency. Rather than be satisfied
with a description of present social relations and idealizing them, a non-ideal view will
strive towards locating minimal conditions that could result in effecting political
transformation. A non-ideal approach, therefore, will not simply cast doubt on the realizability of long-term ideals, but will also show why they are in principle bound to be mere reflections of already-existing social hierarchies. Ultimately, my view derives normative dictates by appealing to procedural approaches to resolve problems that have a historically specific character.

The view I developed allows for pursuing further lines of inquiry. Recognizing the historicity of knowledge along with the problems they produce requires addressing the question of objectivity. Accepting that truth claims often serve a political function within a power-knowledge complex runs the risk of endorsing a self-defeating form of relativism that cannot justify any normativity. From a political point of view, this would lead to the problem of promoting inaction and collapses into defending the status quo in the absence of any direction that could guide efforts for political change. As I have argued, one way to circumvent this problem is by appealing to tentative normative dictates that could have a general scope. Nonetheless, adequately accounting for this problem requires developing a view that is able to incorporate objectivity into historicism, or in other words, to offer criteria for objectivity that would simultaneously be historically embedded. In parallel, the approach would also have to specify why it is that rational arguments, despite being often strategically motivated, would still retain their force while rejecting myth as legitimately compelling.

In chapter five, I suggested that one way to resolve the problem of objectivity is by appealing to conditions of intelligibility as a basis. Conditions that render discourses intelligible upon scrutiny involve those that adhere to forms of rational argumentation, which would also include historical approaches. Referring to conditions of intelligibility
ultimately privileges the social over other spheres of knowledge. If politics is not to be grounded in metaphysics, then it must be rooted in actual transformable social relations. It is in the social sphere that conditions of possibility of knowledge emerge. These conditions could follow from a combination of factors, some of which may be necessary conditions that pertain to our constitution, others could be related to sufficient historical conditions. Whether we can arrive at a clear list of which conditions are necessary and which are contingent is dubious. Nevertheless, our critical role requires that we continuously seek to determine which conditions are changeable and what strategic implications could follow from such changes. This allows us to direct critique in order to address local problems that had been made possible by complex historical circumstances.

As I have suggested earlier, it is crucial to realize that theorizing about knowledge independently of such historical and social conditions fails to account for our limitations. There is a clear sense in which our knowledge claims are always situated within a cultural context and within rules that determine the boundaries in which this knowledge can develop. Therefore, independently of such rules, knowledge would be impossible. But more importantly, it is historical transformations that determine these limits and boundaries, without which knowledge cannot develop. And these historical transformations do not arise out of necessity, nor do they obey the neat structure of reason. Instead, they are always to be determined retroactively, by analyzing how, as material beings, we are influenced by practices that make us what we are.

The insight that follows from assigning priority to the social, as a transforming field that involves shifting power relations, is identifying a philosophical role for historical contingency. This role is not only in the constitution of epistemic and political
problems, but also in our constitution as subjects, a role that often results from what we
dem to be normatively binding classifications. If we accept this position, then historical
analysis is validated not by reference to an independent reality, but to basic rules that
determine what is intelligible and what is not. These rules can only be understood as
intersubjective and arising out of interaction with others.

In a similar manner, what legitimates rational inquiry is precisely that pursuing
sound argumentation is a precondition to render the world intelligible. These rules, then,
which themselves are to some degree subject to historical transformation, inform us more
about ourselves than they do about the world. The political implication of this realization
is that we recognize that we are responsible for constituting our condition and thus can
transform it, but also simultaneously that our intervention is bound to be limited given
that rational analysis, as a precondition for intelligibility, cannot do away with assuming
necessary conditions, ones that will continuously be revised. Rendering our condition
intelligible, therefore, will have to result from identifying coherent rules to use as our
starting point, rules that do not have validity independently of the social sphere in which
they are operative.

Finally, my view also raises another question concerning the kind of skepticism I
have endorsed. As I argued in chapter five, normative prescriptions are bound to be
transient rather than necessarily and universally compelling. I argued that one problem
we consistently find in politics arises out of a dogmatism with respect to beliefs that
motivate political convictions. Combatting this dogmatism can take different forms, but
as I propose, it must begin by inculcating a skeptical outlook in citizens. Given that my
view is grounded in rejecting access to the metaphysical world along with recognizing
how knowledge often serves strategic roles, this normative conclusion goes beyond mere intellectual humility that results from recognizing one could mistaken upon encountering disagreement. Instead, I invoke a deeper skepticism that concerns knowledge in its various forms. This raises a number of questions concerning the kind of skepticism that ought to be adopted. As I have argued, this skepticism will have to be able to generate normative content in order to avoid being aligned with conservatism. In its results, this skepticism cannot be Pyrrhonian and must not lead to the suspension of all judgment. Nor is it a Cartesian rejection of skepticism that aims at returning to an undisturbed dogmatism. Instead, the goal is to develop a form of skepticism that is able to put forward accounts of knowledge while being cautious of their use in order to avoid legitimating hegemonic practices. Of course, the dictate of skepticism may itself be revised as well in accordance with historical circumstances.

David Hume concludes his essay “Of the Original Contract” by referring to Socrates in *Crito*, who “builds a *tory* consequence of passive obedience on a *whigh* foundation of the original contract.”\(^{257}\) Though a Tory consequence may not have been undesirable for Hume, this statement offers insight as to how a view based on agreement unfolds. Identifying consent as central to the question of political philosophy may often serve the purpose of reinforcing conservative politics. Rethinking justifications in terms of contract, whether original or hypothetical, often functions in an ideological manner that solidifies existing social arrangements. As I argued, Rawls’s view, as one that arises out of commonsense morality, is a clear example of offering reasons to legitimate an existing social order as it fails to give adequate justifications apart from an existing

\(^{257}\) David Hume, "Of the Original Contract," 201.
overlapping consensus. Rethinking political normativity, therefore, must not develop out of considering an ideal that arises out of a present order, but must begin with identifying where change is possible and then move towards practically realizing it.
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