

The Good Bishop and the Explanation of Political Authority

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A central problem of political philosophy is that of explaining how a state could have the moral authority to enforce laws, promulgate laws which citizens are thereby obliged to obey, give new duties to citizens and levy taxes. Many rival solutions to this problem of political authority have been offered by contemporary and recent philosophers but none has obtained wide acceptance. The current debate takes no cognisance of George Berkeley's 'Passive Obedience', in which he defends the exceptionless duty of not using force to resist the state and offers a rule-consequentialist account of morality which indicates an explanation of political authority as grounded in the social connectedness of human beings. I expound, criticise and develop Berkeley's explanation to provide a promising solution to the problem of political authority. The solution impugns the political authority of all existing states as well as the duty of passive obedience.

Introduction

A central question of political philosophy concerns the moral legitimacy of the state. Any body with sufficient *power* can issue directives accompanied by credible threats of adverse consequences in case of non-compliance that make it prudent for people to comply with the directives. But how could a body be morally *entitled* to:

- (1) enforce laws across the whole of a society,
- (2) issue new laws which people thereby have a duty to obey,
- (3) assign new moral duties to the citizens,
- (4) levy taxes?

That is, how is it possible for a body to have political authority?¹ In the course of his defence of passive obedience to the state, George Berkeley, 'the good bishop', suggests a theological rule-consequentialist explanation of the moral authority of the state which, if

¹ The term 'political authority' is sometimes used to refer only to (2) and (3), for instance by David Estlund, *Democratic Authority* (Princeton: Princeton University Press, 2008), p. 2; but here I use the term more loosely to cover (1) - (4).

developed and corrected, provides a promising solution to the problem of political authority.² Unfortunately, Berkeley's approach to the problem has been ignored by contemporary and recent philosophers. For example, four recent encyclopaedia articles which review the state of the current debate about the problem of political authority say nothing of either Berkeley or a rule-consequentialist solution.³ This paper begins to fill the gap.

Berkeley's task in 'Passive Obedience' is, by appeal solely to principles of reason common to all mankind, to inculcate and explain the Christian duty of passive obedience to the supreme civil power that makes and enforces laws (henceforth, 'the state').⁴ Passive obedience means fulfilling the laws either by a punctual performance of what they enjoin or, where that is inconsistent with reason or conscience, by a patient submission to whatever penalties the state imposes for non-performance (paras. I-III).⁵ In 1688, the Protestant William III had ousted the Catholic James II as King of England, Scotland and Ireland, and the attempted restoration of James, which took hold in Ireland and divided the Irish along religious-ethnic lines, was defeated at the Battle of the Boyne in 1690. The turmoil had presented Irish Protestants with an apparent conflict between the Anglican adherence to the doctrine of passive obedience and their support for William. Some argued that James had effectively abdicated, or that William was a just conqueror, or that the doctrine of passive obedience needed qualification, or that it could be set aside in extreme circumstances, or even that William's ousting of James had been due to an act of God. Berkeley was an infant during the turmoil and the debates that followed it, but in 1712, when he wrote his tract as a Fellow at Trinity College, Dublin, political polarisation had reignited the controversy. Berkeley's intention was to support William and promote civil peace, but some took him to be a supporter of James.⁶

I begin by expounding Berkeley's rule-consequentialism and extricating it from his theology. I take no account here of the other strands in Berkeley's moral theory.⁷ I then explain that Berkeley's defence of passive obedience suggests a rule-consequentialist explanation of political authority. I develop and correct that explanation to make a new

² For historical references to Berkeley as 'the good bishop' see Scott Breuninger, *Recovering Bishop Berkeley: Virtue and Society in the Anglo-Irish Context* (New York: Palgrave Macmillan, 2010), Ch. 1.

³ Tom Christiano, 'Authority', *The Stanford Encyclopedia of Philosophy: Spring 2013 Edition*, edited by Edward N. Zalta, available online at <http://plato.stanford.edu/archives/spr2013/entries/authority/> (accessed 2014-11-4); Richard Dagger and David Lefkowitz, 'Political Obligation', *The Stanford Encyclopedia of Philosophy: Fall 2014 Edition*, edited by Edward N. Zalta, available online at <http://plato.stanford.edu/archives/fall2014/entries/political-obligation/> (accessed 2014-10-27); Leslie Green, 'Legal Obligation and Authority', *The Stanford Encyclopedia of Philosophy: Winter 2012 Edition*, edited by Edward N. Zalta, available online at <http://plato.stanford.edu/archives/win2012/entries/legal-obligation/> (accessed 2014-11-5); Fabienne Peter, 'Political Legitimacy', *The Stanford Encyclopedia of Philosophy: Winter 2014 Edition*, edited by Edward N. Zalta, available online at <http://plato.stanford.edu/archives/win2014/entries/legitimacy/> (accessed 2014-11-4).

⁴ George Berkeley, 'Passive Obedience', in *The Works of George Berkeley*, Volume VI, edited by A. A. Luce and T. E. Jessop (London: Thomas Nelson and Sons, 1953 [1712]), pp. 15-46.

⁵ Throughout, all parenthetical references to numbered paragraphs are to Berkeley, 'Passive Obedience'.

⁶ Breuninger, *Recovering Bishop Berkeley*, pp. 20-34.

⁷ For which see Matti Häyry, 'Passive Obedience and Berkeley's Moral Philosophy', *Berkeley Studies* 23 (2012), pp. 3-14, especially p. 11.

contribution to the contemporary philosophical debate about the problem of political authority. In the light of that development, I criticise Berkeley's defence of passive obedience. In the conclusion I highlight further work needed to develop the explanation.

Rule Consequentialism

Berkeley says that because God created and preserves us we have a duty to conform our actions to His will. God, being infinitely good, intends the good of His creatures and thus that the actions of each individual human should promote the well-being of all humans (paras. V-VII). However, it is impossible that a person should, in each circumstance, attempt to identify the action which would produce the greatest good for humanity, because the full consequences of a possible action cannot be known by a person in advance, or at all, and surely not in the time available to make a decision. In contrast, a compendious set of exceptionless rules is open to practical mastery. Thus, what is enjoined by the will of God is adherence to those moral rules which, if universally acted upon, have a necessary tendency to promote the well-being of humanity in general, so far as it is attainable by human actions, even though in some particular instances action in accord with the rules may, through untoward accidents and the perverse irregularity of human wills, occasion great sufferings and misfortunes (paras. VIII-XI, XV). Although our limited capacities require that the moral rules are exceptionless in the sense that no deviation from them is permissible, the *statement* of a particular rule may specify some exceptions. For instance, the moral rule, 'one ought not to murder', might also be expressed as 'one ought not to kill another person except in battle or in self-defence or in capital punishment' (para. XXXII). In framing the true moral rules we must be guided entirely by the general human good, but in our ordinary moral actions we must be guided by the moral rules (para. XXXI).

We can separate rule-consequentialism from Berkeley's theism as follows. The value of the general good of humanity is so great that we (morally) ought to do our best to bring it about. The best prospects for its achievement will be realised if we all act in conformity with a particular set of rules $R_1...R_n$. Therefore, we (morally) ought to act in conformity with the rules $R_1...R_n$. Therefore, each of the rules $R_1...R_n$ is a true moral rule. That is analogous to the transmission of value from ends to means; and since the purpose of the means is to achieve the end, we might express the account teleologically, though metaphorically, by saying that the purpose of morality is the general good of humanity. A theist such as Berkeley can then add (para. XI) that God's purpose is the general good of humanity and, since he who wills the end wills the necessary means (if he knows them and is instrumentally rational), the set of true moral rules are expressions of God's will.

True moral rules include a number of universal ought-statements, such as, 'one ought not to lie', 'one ought not to steal' and 'one ought not to commit adultery' (para. XV). As we have seen, what distinguishes the true universal ought-statements from those which are false, such as 'one ought not to sing', is that the former form a set such that, if everyone always acted in accord with them, the well-being of all humans would be promoted as far as is possible in this world. The well-being of all would not be perfectly achieved under such circumstances, in part because of 'untoward accidents' (para. VIII). Berkeley does not say what sorts of accidents he has in mind, though he does speak of the 'unhappy concurrence of events' (para. XIII). That suggests that the type of thing in question is misfortunes consequent upon imperfect skill or knowledge. Here is a couple

of examples. At dinner I see a guest looking for the salt, so I reach for the salt to pass it to her, but in doing so I knock over a glass of wine and stain the expensive outfit of the woman sitting next to me. A friend who loves landscape paintings is currently melancholy, so I send her a beautiful landscape painting to raise her spirits; but, unbeknown to me, the scene depicted bears an uncanny resemblance to a place she frequented in her childhood which brings back awful memories. So, universal compliance with the set of true universal ought-statements cannot guarantee the well-being of all; it provides only the best prospects for it.

There is not much chance of universal compliance with the true universal ought-statements: people often act contrary to moral rules for the sake of some material advantage or even to indulge wicked desires; and good people suffer as a consequence. The existence of 'the perverse irregularity of human wills' (para. VIII) means that there are often circumstances in which action in accord with the true moral rules produces worse consequences for human well-being than would transgression of them. Berkeley does not give an example, but here is a familiar one.⁸ In a small South American town, twenty Indians are tied up against a wall. There have been protests against the government and the Indians have been selected at random to be shot, to discourage further protests. A foreign botanist comes upon the scene and the captain in charge offers him a guest's privilege of killing one of the Indians himself. If the botanist accepts the offer, the other Indians will be set free; otherwise all twenty will be shot. The botanist, on Berkeley's view, ought to comply with the moral rule 'one ought not to murder', even if nineteen more people will be murdered as a consequence. His reason is that, given that the purpose of morality is to promote general human well-being, we have a choice between act-consequentialism and rule-consequentialism, and the former is impossible given our limited capacities.

It might seem that in any case in which an action that would best promote the general good is prohibited by a moral rule, *R*, an amendment to *R* which makes an exception of that type of case would better promote the general good than *R* does; in which case it is the amended rule rather than *R* that belongs to the set of true moral rules. Following that thought to its logical conclusion, it may seem that rule-consequentialism collapses into act-consequentialism, because any apparent conflict between the two only shows that the rules need to be amended; and a refusal to make the necessary amendments would seem to be a fetishistic attachment to a particular set of rules.⁹

However, that line of thought is mistaken. The rule, 'one ought not to murder except when doing so will have better prospects for the general good than any alternative action', is open to the objection to act-consequentialism, that it is impossible that a person should, in each circumstance, attempt to identify which action would have better prospects for the general good. Rules so qualified would be useless. It might be suggested that, instead of the general clause, 'except when doing so will have better prospects for the general good than any alternative action', every statement of a rule should contain a

⁸ Bernard Williams, 'A Critique of Utilitarianism', in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973), p. 98.

⁹ The claim is made by J. J. C. Smart, 'Extreme and Restricted Utilitarianism', *Philosophical Quarterly* 6:25 (1956), pp. 344-354, section III, and refined by David Lyons, *Forms and Limits of Utilitarianism* (Oxford: Oxford University Press, 1965), pp. 177-186. It is repeated by many philosophers, such as A. John Simmons, *Moral Principles and Political Obligations* (Princeton: Princeton University Press, 1979), pp. 51-52.

clause listing each type of exception in which action contrary to the rule will better promote the general good. But that is open to a similar objection: we cannot identify in advance all of the particular types of exceptions. It is also open to the objection that, even if we could formulate such rules, they would be so complex, containing so many very detailed descriptions of exceptional cases, that they could not be employed in practical decision-making. It is not rule fetishism to adhere to a set of moral rules on the grounds that the impossibility of act-consequentialism makes a learnable set of rules necessary and that the set of rules in question is learnable and provides better prospects for general human welfare than any other learnable set of rules.

Berkeley recognises that the moral rules that he enunciates presuppose a set of social institutions (para. XXV). Those institutions are in turn constituted in part by other moral rules. Thus, the rule, 'one ought not to steal', presupposes the institution of property, which implies that people have moral authorities, rights, duties and liabilities.¹⁰ For example, a property-owner has the moral right to exclude others from his property, the moral duty not to destroy the property of others, the moral authority to alter existing moral rights and duties concerning property, of himself and of others, by entering a contract to buy or sell or hire, and the moral liability to have his existing moral rights or duties altered by others who may, for instance, give him permission to enter their property and thus annul his erstwhile moral duty not to enter it. Similarly, the rule, 'one ought not to commit adultery', presupposes the institution of marriage, which implies that people have the moral authority to enter marriage contracts and to alter their prior moral rights and duties as a consequence. The ought-statements to which Berkeley pays explicit attention are therefore somewhat surface phenomena, in that they depend upon the background moral rules assigning moral authorities, rights, duties and liabilities which underlie the institutional framework of the society.

The Possibility of Political Authority

Berkeley argues that the general good of humanity depends upon social co-operation which in turn depends upon submission to a state and its laws (para. XXV) and that the set of true moral rules includes the rule of passive obedience (para. XV). That rule, like the other ought-statements in the set, presupposes an institutional background, in this case the institution of the state (para. XXV). As the rule, 'one ought not to steal', is underpinned by the moral right of the property-owner to deny others the use of her property and the correlative duty of those others not to take her property without her consent, so the rule, 'one ought not to resist the state', would be explained if the state has the moral authority to make and enforce laws for the people within its jurisdiction so that those people are liable to be morally bound by those laws and subject to their enforcement. Thus, sovereignty belongs originally to the state (paras. I-IV, XVI), rather than being given to the state by the people through a social contract (paras. XXII-XXIV). I discuss the rule of passive obedience below. Here I want to offer a more detailed

¹⁰ For detailed explanations of these moral and legal notions and their interrelations see Wesley Newcomb Hohfeld, *Fundamental Legal Conceptions*, edited by Walter Wheeler Cook (New Haven: Yale University Press, 1919) and Judith Jarvis Thomson, *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990).

development of Berkeley's rule-consequentialist insight that the political authority of the state is a moral fact independent of people's thoughts or wills.

It was noted above that the set of true moral rules is such that:

- (i) if everyone always acts in accord with the rules, the best prospects for the general good of humanity will be achieved;
- (ii) there is not much chance that everyone will always act in accord with the rules.

Many more people will act in accord with moral rules much more of the time if it is permissible to enforce at least some of those rules. For example, the rule which assigns to each person the moral right not to be murdered, which entails the rule that everyone has a moral duty not to murder, will more generally be adhered to if persons have the moral right to enforce their right not to be murdered, that is, if they have the moral right of self-defence. It will even more generally be adhered to if third parties also have the moral right to enforce a person's right not to be murdered, by preventing an aggressor from murdering another. Since rules assigning such rights of enforcement would substantially increase the frequency of adherence to true moral rules, they would improve the prospects of the general good of humanity. They therefore also belong to the set of true moral rules. General adherence to true moral rules, and the prospects for the general good of humanity, would increase much farther if there were a single body (the state) which had:

- (a) the duty to enforce those true moral rules that are permissibly enforceable;
- (b) the authority to promulgate laws declaring true permissibly enforceable moral rules;
- (c) the authority to make efficient institutional arrangements for the enforcement of true permissibly enforceable moral rules (police, courts, penal and restitutive measures, and arrangements for defence against external aggression);
- (d) the authority to levy fair taxes on the citizens to pay for those arrangements.

Rules assigning that duty and those authorities to the state therefore belong to the set of true moral rules.

In Western societies, and perhaps in all others, it is not the case that all moral rules are permissibly enforceable. For example, a promisor gives a promisee a moral right to fulfilment of the promise; but, unless there is an exchange of promises (a contract), the promisee is not entitled to enforce her right if the promisor defaults. Contracts, in contrast, engender moral rights that are permissibly enforceable by the courts. If the set of true moral rules includes some which it is impermissible to enforce, it will be because some true moral rules are such that, if they were permissibly enforceable, the prospects for the general good of humanity would be diminished. The explanation would reside in the high cost or other disadvantages of permitting the enforcement of true moral rules of particular types; but we can leave that issue on one side.

Historically, the state emerges against a background of evolved moral rules and it typically takes upon itself the enforcement of a substantial portion of those rules;¹¹ but since the evolved rules may require supplementation or correction, the state must have,

¹¹ Friedrich Hayek, *Law, Legislation and Liberty* (London: Routledge, 1982), Volume 1.

in addition to the moral duty enunciated in (a), also the moral authority identified in (b). The moral authorities identified in (c) and (d) give the state considerable permissible leeway because there may be any number of different but equally efficient ways of arranging for enforcement and any number of different but equally fair ways of raising a given sum through taxation. In promulgating the laws governing the arrangements it establishes, the state therefore exercises the moral authority to create new duties in the citizens which the citizens would not have had but for the state's action. For example, in creating a police force the state passes laws which give police officers rights to enter property or to stop, search or direct citizens, which in turn create new duties in the citizens to allow the police to do such things. There are innumerable alternative sets of rights that could be given to the police, and some of those alternatives may be equally as good as each other and better than the rest, in which case *which* new duties the citizens receive depends upon which set the state permissibly chooses. With regard to taxation, the state also passes laws which citizens *thereby* have a duty to obey. There are any number of equally fair tax laws which raise the same overall amount of tax but which employ principles which distribute the burden slightly differently between the citizens. So, the duty to pay a particular amount of tax derives from the duty to obey the particular tax laws which the state has permissibly decided to promulgate. However, in all such cases, the state's permissible leeway is limited to selection from among those potential laws which are equally good from the standpoint of the general good of humanity. That follows from the fact that the rules which assign the state's moral authorities belong to the set of true moral rules only because of their connection to the general good of humanity; so they will not assign the state moral authorities to promulgate laws which would undermine the prospects for the general human good.¹²

The reason there should be a *single* body with the duty and authorities specified in (a) - (d) is that a multiplicity of competing bodies would engender internecine strife. The practical difficulties of managing affairs over a large scale mean that a state should be confined to a manageable territory and thus that humanity should be divided into separate states. The laws of the states may differ, given the (limited) permissible leeway that a state has in promulgating laws.

The state is an institution, not a person. It is a network of relations structured by norms, including rules which assign moral authorities, rights, duties and liabilities to particular citizens under specific circumstances; it includes people only *qua* occupants of particular roles, and those roles are themselves patterns of relations structured by norms.¹³ For instance, the moral authorities, rights, duties and liabilities attaching to the office of the Prime Minister may be assigned to the leader of the political party that obtains most votes in an election. The moral authorities, rights, duties and liabilities of the state are realised in moral authorities, rights, duties and liabilities of specific individuals which attach to those individuals only insofar as they fulfil a particular social role.

¹² Where the state has a choice between alternative equally optimal enforceable moral rules, the true moral rule is a disjunction of each of the alternatives. In such cases, the state's duty or authority concerns not the moral rule itself but any one of its disjuncts. That complication is suppressed in the text to avoid circumlocution.

¹³ See Dorothy Emmett, *Rules, Roles and Relations* (London: Macmillan, 1966), pp. 1-16, 138-148.

The duty identified in (a), above, is the duty to enforce only *true* moral rules. Plainly, a state which had a duty to enforce false moral rules would be detrimental to the general good of humanity, so a rule assigning such a duty to the state does not belong to the set of true moral rules, which means that no state has such a duty. For the same reason, no state has the moral authority to promulgate or enforce false moral rules, which means that any state that promulgates or enforces false moral rules is acting outside of its moral authority and is thus acting wrongly.

Knowledge and Actual States

We need a solution to the knowledge problem: how can we know which of the myriad possible sets of moral rules is the correct one? Berkeley says that, on an impartial survey of the general frame and circumstances of human nature, it will appear plainly to anyone who has the use of reason, that universal compliance with the rules, 'one ought not to lie', 'one ought not to steal', and 'one ought not to commit adultery', has a necessary connection with the well-being of humanity (paras. XV, XXVIII-XXIX). He says that those moral rules 'necessarily result from the Nature of Things', are '*stamped on the Mind*' and 'may be demonstrated by the infallible deductions of Reason' (para. XII). There are at least two reasons why it seemed reasonable to Berkeley to claim that the set of true moral rules is knowable infallibly by pure reason. The first is that, in his day, Christianity dominated his culture and the culture of the other educated nations within his purview, so Christian moral precepts were taken for granted by almost all of the educated people with whom he came into contact, which would have made them seem axiomatic. The other reason is that Berkeley expresses moral rules using terms that are already loaded with moral force. For example, the statements 'one ought not to steal' (para. XV) and 'one ought not to murder' (para. XXXII) each contains a term, respectively, 'steal' and 'murder', that connotes moral wrong, so people generally will agree that such statements are generally true. However, agreement on such statements with morally-loaded terms can camouflage substantial disagreements about which actions count as stealing or which actions count as murder. For instance, Berkeley denies that capital punishment is murder (para. XXXII), but many educated people in contemporary Western societies would say that it is. Similarly, there are nowadays heated disputes about whether taxation, copyright infringement or even legal tax-avoidance is stealing; and whether abortion, euthanasia or assisted suicide is murder. In our post-Christian, culturally diverse societies, the claim that the set of true moral rules is knowable by a priori reflection seems preposterous.

The knowledge problem concerns the consequences and risks for human welfare of types of human action in different institutional environments, so we must look to the social sciences for the solution.¹⁴ Any such appeal to the social sciences presupposes an account of what sorts of things make for human welfare. It should be possible to obtain a broad consensus on a set of features of human life, described without using moral terms, such that general human welfare varies with how fully that set of features is realised.¹⁵

¹⁴ Emmett, *Rules, Roles and Relations*, pp. 125-137.

¹⁵ For example, the capabilities approach developed by Amartya Sen, Martha Nussbaum and others is a recent contribution to that project. For a general discussion see Ingrid Robeyns, 'The Capability

We should then be able to construct a formula which orders sets of moral rules according to how fully the set of features would be likely to be realised if each set of rules were universally followed. It should be noted that the rule-consequentialist knowledge-problem is of a different order to the act-consequentialist knowledge-problem. It is simply *impossible* for each, or for any, individual to calculate consequences for every option for action that he takes or fails to take, in part because the consequences of an action often depend upon how other people act in response and are thus knowable only if people act largely in accordance with rules. It is *difficult* to acquire social-scientific knowledge about the consequences of implementing different systems of rules and to develop generally acceptable metrics of welfare, but there is already a great deal of relevant research and further progress can be made; and it is possible that people should conform their actions to a set of rules that such research discovers to be best.

Since the results of scientific research are always open to revision in light of new discoveries, we can never know for sure whether the rules being enforced by a particular state are true ones; and thus we can never know for sure whether the state acts with political authority. However, a state which assiduously revises its legislation in line with the latest social-scientific findings is either:

- (A) enforcing true moral rules (if the latest social-scientific results happen to be correct); *or*
- (B) enforcing false ones *excusably*, because it cannot reasonably be expected to know that the rules it is enforcing are false.

In case (A) it has political authority; in case (B) it does not have political authority and acts wrongly, but excusably. No one can know for sure which of (A) or (B) is the case; but whichever it is, the state is not acting culpably. Correspondingly, the citizens of such a state who obey its laws are either acting rightly or they are acting wrongly but excusably, so their obedience is not culpable.

In contrast, actual states, while they often pay lip-service to 'the common good', generally promulgate and enforce laws, and establish institutional arrangements and systems of taxation, either oblivious of, or in opposition to, the findings of social-scientific research, as a result of deals made between officers of the state seeking to enhance their electoral or career prospects and representatives of organised groups that seek to increase their own wealth or well-being at the expense of the general public.¹⁶ It is just possible that some of these states have by pure fluke hit upon the set of true enforceable moral rules, in which case they have political authority as a matter of chance and without trying to obtain it. But it is more plausible that no actual state has political authority; and none can exonerate itself by showing the consonance of its legislation with the findings of the social sciences. Thus, while the rule-consequentialist account can explain how it is possible for a state to have political authority, it simultaneously impugns the political

Approach', *The Stanford Encyclopedia of Philosophy: Summer 2011 Edition*, edited by Edward N. Zalta, available online at <http://plato.stanford.edu/archives/sum2011/entries/capability-approach/> (accessed 2015-1-20).

¹⁶ Mancur Olson, *The Logic of Collective Action* (Cambridge, MA: Harvard University Press, 1965), *The Rise and Decline of Nations* (New Haven: Yale University Press, 1982), *Power and Prosperity* (New York: Basic Books, 2000).

authority of all actual states and suggests that the wrong behaviour of existing states is culpable.

Passive Obedience

If, as seems to be the case, existing states act without political authority, and culpably, in promulgating and enforcing false moral rules, what are the citizens to do? Berkeley says that they have a duty of passive obedience that requires them to obey the false moral rules except in cases where that would conflict with a true moral rule, in which cases the citizens have a duty to comply with the true moral rule and accept the state's penalty for failure to comply with the false moral rule (paras. I-III). The duty to obey false moral rules imposed by the state or to accept the penalty for not obeying them, is not a duty to the state, which has no right to impose false moral rules, but a duty assigned by the rule of passive obedience which belongs to the set of true moral rules; in Berkeley's theological terms, it is a duty to God (paras. XXXVII, XXXIX, XLIV). The duty is exceptionless and ought morally to be fulfilled even in cases where its consequences are detrimental to the general good (para. LIV).

Berkeley's arguments for assigning the rule of passive obedience to the set of true moral rules are not cogent. His first argument is that even a despotic state is preferable to anarchy (paras. XV-XVIII, XLV, LI). However, that assumes that the use of force to resist the state entails anarchy, which is not so, since such resistance could be sporadic or targeted rather than general.

Berkeley's second argument is that, without the exceptionless rule of passive obedience, there would be disputes about when the use of force is permissible, which would in turn lead to anarchy (para. XX). That confuses epistemological and ontological issues. Let us, for the sake of argument, grant Berkeley that the exceptionless rule of passive obedience is true as a matter of objective fact. There are still disputes between people about whether it is true, and thus about when the use of force against the state is permissible. Indeed, Berkeley himself says that, if it is not clear which person or group has a legitimate claim to represent the state, it will not be clear to whom the people have a duty to submit (para. LIII); in which case there may be disputes over whether the use of force against the (legitimate) state is permissible. That was the case when Berkeley wrote, but it did not lead to anarchy; similarly, in contemporary Western societies there are disputes over the permissibility of resisting the state, but they have not led to anarchy.

Berkeley's third argument is that, while it is possible that an attempt to remove a government by force may succeed, the danger of civil war, or of failure followed by repression, make it inadvisable (para. XLVII). That is a legitimate worry for general resistance, but less so for targeted acts of resistance. The attacks on agents of the state (police, soldiers and so on) and ordinary citizens by terrorists in contemporary Western societies, for example, have not led to civil war, though they have led to significant erosions of civil liberties.

Berkeley's fourth argument is that, in any case of resistance, large or small, we can never know whether the use of force will promote the general good, so we need an exceptionless rule of passive obedience (para. XIX). That just repeats the argument for the superiority of rule-consequentialism over act-consequentialism. As such, it leaves open the question of whether Berkeley's rule of passive obedience or some other more nuanced rule is the correct one.

Ironically, Berkeley himself proposes a qualification to the statement of the rule of passive obedience. He says that the duty of passive obedience does not require submission without opposition to usurpers or madmen in control of the state, because such exceptions are specified in the proper formulation of the rule (paras. LII-LIV). He regards it as obvious that the statement of the rule should specify those exceptions (para. LII). It is thus easy to see how Berkeley's sympathies were misinterpreted: was it William or James who was a usurper? Unfortunately, Berkeley cannot consistently admit that qualification of the rule. If, as he claims, resistance to the state is impermissible because it entails anarchy, it will entail anarchy, and thus be impermissible, when the state happens to be controlled by a usurper or madman.

We are left without an answer to the question of when it is permissible to use force to resist a state that acts culpably without political authority. But it seems that, if we do retain a rule of passive obedience, its statement will include exceptions that distinguish it from the rule that Berkeley defended.

Conclusion

Bishop Berkeley's 'Passive Obedience' indicates a theological rule-consequentialist explanation of political authority. I have developed that explanation by spelling it out in more detail and by removing its invocation of moral rules knowable infallibly by pure reason, grounded ultimately in God's will. The result seems to be a promising solution to the problem of how political authority is possible, which explains why the state has the duty to enforce true permissibly enforceable moral rules, and the (limited) authorities to promulgate and enforce new laws, to create new duties for the citizens, to pass laws which citizens thereby have a duty to obey, to levy fair taxes and to institute efficient administrative arrangements. The solution posits true moral rules which are grounded in the value of the general good of humanity and which are to be discovered by social-scientific research. However, it impugns the political authority of all actual states and the duty to either obey their laws or accept the penalties they impose for disobedience.

Needless to say, the solution is pitched at a general level and it needs to be developed in more detail. First, the non-moral features of human life that constitute the general good of humanity need more detailed specification; but work on that issue is already underway. Second, while the solution assigns sovereignty directly to the state, rather than directly to the people (as in democratic theories), that leaves open the question as to whether, despite all the defects of democracy, democratic elections may be the best available means for limiting abuses of state power by its agents. Third, it will not always be clear what the latest social-scientific results indicate, since science is characterised by competing research programmes. That problem is not as acute as might at first be thought. For one thing, social scientists may disagree on many things without disagreeing about which set of moral rules, if universally acted upon, would be likely to yield the best results for the general human good. For another thing, although we can expect different social scientists to espouse different theories about that matter, they may be able to agree about which of the available theories appears to have greatest explanatory scope and simplicity and to stand up best to empirical tests *given the current state of the debate*. Advocates of a challenger hypothesis often realise that their hypothesis is a challenger: they accept that they have more work to do, though they have avenues of investigation to pursue that they hope will eventually show their hypothesis to be better

than the currently leading theory. Still, some new procedure would doubtless need to be introduced to reach a decision for political purposes in cases where there is no clear leader among the competing social-scientific theories about the consequences of rival sets of moral rules.

In those three respects, the explanation of political authority presented can be developed in rival ways. Such rival developments will form a family of rule-consequentialist solutions to the problem of political authority to be evaluated in the light of ongoing social-scientific research. The possibility of such rule-consequentialist solutions has been overlooked by contemporary political philosophers.¹⁷

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Bibliography

- Berkeley, George. 'Passive Obedience' [1712], in *The Works of George Berkeley*, Volume VI, edited by A. A. Luce and T. E. Jessop. London: Thomas Nelson and Sons, 1953, pp. 15-46.
- Breuninger, Scott. *Recovering Bishop Berkeley: Virtue and Society in the Anglo-Irish Context*. New York: Palgrave Macmillan, 2010.
- Christiano, Tom. 'Authority', *The Stanford Encyclopedia of Philosophy: Spring 2013 Edition*, edited by Edward N. Zalta. Online at: <http://plato.stanford.edu/archives/spr2013/entries/authority/> (accessed 2014-11-4).
- Dagger, Richard and Lefkowitz, David. 'Political Obligation', *The Stanford Encyclopedia of Philosophy: Fall 2014 Edition*, edited by Edward N. Zalta. Online at: <http://plato.stanford.edu/archives/fall2014/entries/political-obligation/> (accessed 2014-10-27).
- Emmett, Dorothy. *Rules, Roles and Relations*. London: Macmillan, 1966.
- Estlund, David. *Democratic Authority*. Princeton: Princeton University Press, 2008.
- Green, Leslie. 'Legal Obligation and Authority', *The Stanford Encyclopedia of Philosophy: Winter 2012 Edition*, edited by Edward N. Zalta. Online at: <http://plato.stanford.edu/archives/win2012/entries/legal-obligation/> (accessed 2014-11-5).
- Hayek, Friedrich. *Law, Legislation and Liberty*. London: Routledge, 1982.
- Hohfeld, Wesley Newcomb. *Fundamental Legal Conceptions*, edited by Walter Wheeler Cook. New Haven: Yale University Press, 1919.
- Häyry, Matti. 'Passive Obedience and Berkeley's Moral Philosophy', *Berkeley Studies* 23 (2012), pp. 3-14.
- Lyons, David. *Forms and Limits of Utilitarianism*. Oxford: Oxford University Press, 1965.
- Olson, Mancur. *The Logic of Collective Action*. Cambridge, MA: Harvard University Press, 1965.
- Olson, Mancur. *The Rise and Decline of Nations*. New Haven: Yale University Press, 1982.

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- Olson, Mancur. *Power and Prosperity*. New York: Basic Books, 2000.
- Peter, Fabienne. 'Political Legitimacy', *The Stanford Encyclopedia of Philosophy: Winter 2014 Edition*, edited by Edward N. Zalta. Online at: <http://plato.stanford.edu/archives/win2014/entries/legitimacy/> (accessed 2014-11-4).
- Robeyns, Ingrid. 'The Capability Approach', *The Stanford Encyclopedia of Philosophy: Summer 2011 Edition*, edited by Edward N. Zalta. Online at: <http://plato.stanford.edu/archives/sum2011/entries/capability-approach/> (accessed 2015-1-20).
- Simmons, A. John. *Moral Principles and Political Obligations*. Princeton: Princeton University Press, 1979.
- Smart, J. J. C. 'Extreme and Restricted Utilitarianism', *Philosophical Quarterly* 6:25 (1956), pp. 344-354.
- Thomson, Judith Jarvis. *The Realm of Rights*. Cambridge, MA: Harvard University Press, 1990.
- Williams, Bernard. 'A Critique of Utilitarianism', in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against*. Cambridge: Cambridge University Press, 1973, pp. 75-150.