Glen Newey

Real legitimation, anarchism and power loops

1. Introduction

Clausewitz famously said that war is the continuation of politics by other means, or something like that.[1] The view implies that politics and war share an end, or ends, though it at least leaves it open that the two activities are distinct. This paper concerns means more than ends, and in particular the relation between force and legitimacy. "Force" is a term applicable to a range of human and other interactions, of course, and may cover the "force of the stronger argument", usually thought to be benign, as well as the blunt application of military power.[2] The question I examine is how far legitimacy is destroyed by the use of force.

It is clear that force is always there, a fact correctly registered by Weber's famous definition of the state. An over-schematic map of the relations between the condition of war and the political condition might encourage

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[1] Clausewitz in fact says something along these lines more than once in *On War*. The German in the passage usually cited (Bk 1.1., §24) is, "Der Krieg ist eine bloße Fortsetzung der Politik mit anderen Mitteln", which might be rendered: "War is simply a continuation of politics [or policy] using other means". Clausewitz amplifies (Bk. 3, 140): "Der Krieg ist nichts als eine Fortsetzung des politischen Verkehrs mit Einmischung anderer Mittel, um damit zugleich zu behaupten, daß dieser politische Verkehr durch den Krieg selbst nicht aufhört, nicht in etwas anderes verwandelt wird, sondern daß er in seinem Wesen fortbesteht, wie auch die Mittel gestaltet sein mögen, deren er sich bedient". As this makes clear, Clausewitz's view was the politics does not cease when two states find themselves in status belli, since political (e.g. diplomatic) efforts can continue concurrently with it.

[2] I will take it that 'force' is a generic term, roughly equivalent to the *Gewalt* of Weber's definition of the […].

Glen Newey
Real legitimation, anarchism
and power loop

the thought that states could operate in a world subsequent to force. But, as Hobbes underlines, what the political condition is subsequent to is not force, but endemic uncertainty regarding its use: that is what overcoming the state of war means. Achieving this itself depends on the successful deployment of force. Whether Hobbes was right to think that this in turn requires the radical centralisation of political power is not a question I will take up. The starting-point for the discussion is the simple fact that force is ineliminable from political life. Often[3] liberals do not deny this, but hope to manage and tame the use of force within a frame that specifies when its use is justified.

I doubt whether such a prospectus can succeed, but the containment of force in political life by a framing story about justification is not the immediate focus here. The discussion deals instead with the effect of force on the political context of justification itself. It is in this connection that I introduce the idea of a *power loop* as a way of identifying (what I see as) the ineliminability, not simply of force itself, but of its effect on how that context itself is understood, including the kinds of justification that may be offered to legitimate what is done there. The aim is not to usurp the dominant liberal paradigm with a pallid version of relativism. It is to argue, ultimately, that justification cannot be what marks the distinction between politics and non-politics, because political life constantly and predictably calls into question, without definitively deciding, whether submitted justifications are indeed legitimating. The upshot is that force cannot, simply in the construction of politics, be subordinated to justification.

2. Politics and legitimation: overview of Williams

I begin by considering Bernard Williams' much discussed posthumous work on politics and legitimacy.[4] I assume that Williams' construction of politics

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[3] Even so, John Rawls' position on modus vivendi accommodations in *Political Liberalism* (1995) comes close to arguing that force – at least where it involves rough equality of power – is, in itself, illegitimate. The contrast is with the liberal *Rechtsstaat*, where no force is needed, presumably because everyone is of like mind. To this extent, a basic condition of politics is not met.

[4] See Williams 2005, ch. 1.

Glen Newey
Real legitimation, anarchism
and power loop

aims to work with minimally contestable norms. He works on the assumption that politics is something other than war, and that exchanges of claims about legitimacy can occur only in the absence of war. The motivation for doing so comes from the thought that politics, as distinct from war, cannot simply involve the use of force by one group of people on another. What is required, beyond that, is the idea that power is used legitimately, and that this idea can inform the beliefs not just of those who exercise (and so may be thought to benefit from) it, but also those subjected to it. This Basic Legitimation Demand, or BLD, is one that, if met, effects the transmutation of power from belligerence to politics.

Williams argues that what is needed for politics is something more than an account of one group's successful domination of another, as with the domination of the Helots by the Spartans. What does politics require beyond this? Those who wield power must meet the BLD, Williams argues, by justifying their dominance to those on the receiving end. What is required is an account of legitimacy, and the powerful cannot give this simply by reaffirming the fact of their dominance: they have to *justify* this fact. But as Williams notes, it is far from obvious what 'justify' amounts to here. In the sense in which 'justify' is an 'achievement verb', I could be said to justify a practice merely if I perform the speech-act of justification, for example by claiming that the dominated group is downtrodden because its members are naturally inferior. In this sense, the demand that politics exists only if the dominators justify their position is too weak for Williams' purposes – indeed, since the bare verbal form imposes no constraints whatever on the content of the justification, it hardly offers an advance on the fact of domination. What is required on top, Williams thinks, is a 'normative supplement' that goes beyond a flatly ideological statement of the fact of domination.

As with all accounts of legitimacy, the danger of triviality looms again: even if those in power prove successful in eliciting assent from those at whom legitimation is directed, the disposition to accept the regime may simply be an artefact of power. As Williams notes, the acceptance has to go beyond mere *de facto* rubber-stamping of others' title to rule, by a perhaps deluded or misinformed citizenry. Williams thinks that the normative supplement here can be furnished by posing a counter-factual question. The question is whether the ruled would still have accepted the rulers' legitimacy, even if they were not subject to force.

Glen Newey
Real legitimation, anarchism
and power loop

At this point Williams draws on the 'Critical Theory Test' (CTT) set out in his earlier book *Truth and Truthfulness*.[5] The test requires that a dominated group's consent to the exercise of power is not itself simply the by product of that power. The dominant group may encourage its subjects to think that they deserve their lowly position, as with working class 'deference', or women's 'submission' to patriarchal power. Such cases would presumably fail the CTT: consent is not sufficient for legitimating power, and hence to make the rule of some people by others a matter of political authority rather than mere force. At the same time, consent is not necessary for legitimacy, since those who withhold their consent may simply be unreasonably opposed to authority on principle, or be outlaws of some kind. So in Williams' view consent is neither necessary nor sufficient for legitimacy, and hence for politics as opposed to mere domination. This leaves the Hobbesian question: what does secure legitimacy, and hence distinguishes politics from the condition of mere warfare?

Williams answers as follows:

> Who has to be satisfied that the BLD has been met by a given formation at one given time is a good question, and it depends on the circumstances. Moreover, it is a political question, which depends on the political circumstances. Obviously, the people to be satisfied should include a substantial number of the people; beyond that they may include other powers, groups, elsewhere sympathetic to the minority, young people who need to understand what is happening, influential critics who need to be persuaded, and so forth.[6]

The problem here is similar to the one that faces Habermas' attempts to formulate discursive principles of legitimacy. The question is taken to be whether individuals in certain ideal conditions would accept the principles. But the content of the conditions cannot even be set out prior to politics, or the 'circumstances' to which Williams refers. Not that cases of withheld or offered assent that affect legitimacy one way or the other do not vary circumstantially – no doubt they do. But on Williams' own account, they surely vary circumstantially in ways that affect how the CTT will operate. In some

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[5] Williams 2002.

[6] Williams 1996, 36.

Glen Newey
Real legitimation, anarchism
and power loop

cases, assent proves to have been suborned by methods that neutralise their power to legitimate authority, but it is very often a genuine question whether the circumstances are such as to derail claims of legitimacy. There is no obvious reason to believe that adequate criteria for judging answers to that question will admit of some general characterisation. One reason for that is that the circumstances themselves can be characterised in multiple ways, some of them mutually incompatible. Indeterminacy also attends what counts as information at all, and what bits of information are relevant or salient.

Why not rest content with the CTT? Indeed, why does Williams not say this himself, as the test seems precisely designed to handle problematic claims to legitimacy? While it remains conjectural why Williams did not do this, a possible explanation lies in the non-functioning of the test in cases where, assuming its rationale is to give a basis to decide legitimacy, clarification is most needed. The basic problem is how to provide clear truth conditions for the consent clause – the conditions under which the affected individuals would accept them. As Williams says, the circumstances in which an act of consent would pass the CTT, and thus confer legitimacy rather than merely reaffirming the fact of domination, defy pre-political formulation. So they cannot be brought in before politics as a way to distinguish politics from non-politics. It is not hard to come up with legitimacy deraining scenarios where assent has been extracted by deception, drugs or brute force. The harder cases are those where these methods are not used, but assent is extracted through more insidious means, as in 'dominant ideology' scenarios.

Suppose one says that citizen Z's assent to a purported authority results from indoctrination by the authority when Z was young; then, in some possible worlds where the indoctrination does not exist, Z will not assent, but in some Z will assent anyway.[7] The proposal falls prey to the 'failsafe' considerations that beset counter-factual analysis in other areas, such as causation.[8] Where the regime has been instrumental in procuring its own support, it may seem obvious that citizens' acceptance of it fails to legitimate it. After all, many grossly unjust regimes have proven adept at spreading propagan-

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[7] One strategy is to invoke the closest counter-factual world to the real one to secure the truth conditions. The problem here is how to make the notion of trans-world proximity robust enough to do the justificatory job asked of it.

[8] See e.g. Ehring 1997, 27-28.

Glen Newey
Real legitimation, anarchism
and power loop

da to promote their own acceptance. Perhaps the CTT will weed out such cases. But it may also end up by giving out false negatives. The habits of acceptance may be inculcated in more subtle ways than via overt propaganda of the sort used by totalitarian regimes. An obvious example is education, which inculcates the habits of obedience in a variety of forums, and not just in say, Citizenship class. The interleaved processes of schooling and socialisation work to secure the grounds of compliance – and the formal curriculum follows the state's say so about which students should get taught what, when and how.

But it isn't obvious that these facts invalidate the acceptance of the norms, any more than the perhaps coercive inculcation of Boyle's Law, say, or the binomial theorem makes them or their acceptance invalid. Localised legitimating consent may arise even in those regimes whose illegitimacy is plain. If the Test is meant to show that a regime is legitimate only if people would accept it without the force of propaganda, there will be possible worlds in which people accept the regime anyway. The Test is unable, that is, to distinguish between the 'false' positives whose legitimating force it wishes to deny, from those positives that there is no good reason to reject. As a result, the CTT fails as a legitimacy filter.

It relies on a counter-factual question – whether or not the citizens would continue to accept the regime if its coercive force were removed. But the truth-conditions of the counter-factual remain quite unclear: there seem to be some scenarios in which the contrary-to-fact supposition is one in which people do not accept the regime, and others where they do. Williams' test tries to establish the basis on which acceptance is legitimating.[9] But a test of this kind will not provide an uncontroversial way of marking off legitimate from illegitimate coercion. It is more plausible to think that a person's political predispositions will decide, when presented with some regime, whether or not she thinks that those subject to it have accepted it, and so whether, as they do, she sees it as legitimate.

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[9] Appeal to what a 'reasonable' person would accept in the counter-factual situation simply begs the relevant questions. What if the person suffers a lapse of rationality? Or if she is badly informed? At this point the usual move is to restrict talk to persons who are fully informed and rational. What if rational people can disagree? When such questions are pressed it becomes clear that the possible worlds talk is simply a proxy for advocacy of a certain pattern of response as reasonable

Glen Newey
Real legitimation, anarchism
and power loop

There is no reason to think that the reasons presented at this point can be purged of political content. People are apt to accept or reject the justification because they have already adopted a political position, not the other way round. The truth-conditions of the counter-factual claim that people would not accept the authority in a certain set of circumstances are simply unclear, and as a result are ill-fitted to do the job of legitimacy-filtration. If one group claims that it has legitimated its power over another, but the latter rejects this claim, do we have politics, or war? Is one doing politics with the other, while that other is at war with the first? This is a genuine possibility. For example, were the mainly Roman Catholic nationalist and republican community of Northern Ireland during the Troubles at war with the UK state, or simply a political minority over whom power could, accordingly, be legitimately exercised? It became a political matter whether republican prisoners should be granted 'political' status, and indeed whether the use of violence was a legitimate political strategy.

Notoriously, similar questions come up in marxist analysis of legitimation under capitalism.[10] Marxists either deny that the capitalist state is legitimate, or argue that the concept of 'legitimacy' is only applicable within the system, e.g. as contractual validity, so that the system's own legitimacy falls beyond the concept's scope. Marxists will then deny that legitimacy offers a viable means of distinguishing politics from the non-political, since the concept of legitimacy is being deployed to defend the interests of the powerful. But, the story goes, the underlying notion of legitimacy is either invalid or only applies within the system, to relations between those who accept its normative paradigm. So, liberals cannot rely on the concept of politics to distinguish political – that is, acceptable – methods from supposedly non-political ones, such as subversion or violence. On Williams' account, the concept of politics seems to have the following peculiarity: we are only in a position to apply the concept if we know we are already in a situation in which the concept itself applies: that is, our use of the concept is, in effect, infallible. Unless this is so, one cannot operate the distinctions that the notion of legitimacy within the BLD requires, such as between authentic and suborned or otherwise illicitly procured consent. To identify this as a peculiarity is not of itself to object to it. Williams' account implies, in line with the view defended here, that it is itself a political matter what falls within the extension of the term 'politics'.

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[10] It was, for instance, a major concern of the Frankfurt School. See J. Habermas 1975.

Glen Newey
Real legitimation, anarchism
and power loop

No blanket distinction between politics and non-politics, such as that between relations within the scope of the BLD and those outside, seems convincing. Suppose that an application of it yields the conclusion that a given set of relations between actors meets the BLD. But if some group of people fails to agree with that, they may adopt that as a political stance while, by hypothesis, rejecting the claim that the BLD is met. Are these people then at war with the governing power? Perhaps, if a necessary condition of meeting the BLD is actual acceptance of the relevant power by groups to whom it is a live question; but perhaps not, if an acceptance-independent criterion of legitimacy is used. In circumstances where legitimacy itself is in question, the protagonists will necessarily take contrasting positions about the nature of their relationship. But it is not obvious that those who reject the legitimacy claims are thereby in a state of 'war', where this excludes politics.

Consider the possibility of civil disobedience. On Rawls' influential view in *A Theory of Justice*, nearly-just societies can be the site of justifiable civil disobedience where this targets remaining areas of injustice (presumably this applies a fortiori to grossly unjust ones).[11] Clearly one point at issue between authorities and protesters will precisely be whether the policy, law… is substantively unjust, or whether it is legitimate. Presumably those involved will think that one or other of these claims is true (or both). Such was the case, for instance, with the "Not in my name" protests before the 2003 invasion of Iraq.[12] Part of the significance of the phrase lies in its denying legitimacy to the policy, rather than merely opposing it. Whether or not the protesters are thought of as making a valid claim, it is not obvious that what they were saying falls outside politics merely because they were calling the war's legitimacy into question.

There seems little reason to say that the denial of legitimacy places these protests outside the scope of politics, let alone that they therefore belong to the sphere of 'war' – they seem rather to be a clear instance of political action. Suppose the protesters were wrong. Then the government's legitimacy claims survive the CTT, and so there is no reason to think of the protesters' relation to it as other than political, on Williams' own view. But suppose that the protesters

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[11]Rawls 1971, §55, 319ff.

[12] The phrase has also been used, for example, by peace activists in Israel and by anti-ISIS Muslim campaigners. See https://www.youtube.com/watch?v=hAxIOC8Zisc (accessed: 21st October 2015).

Glen Newey
Real legitimation, anarchism
and power loop

were right. Then the government's claims to legitimate the war were unacceptable (and may perhaps have failed the CTT). But even then, it looks like a further step to infer that the failure put the protesters into a state of war with the government. A significant feature of the protests were that they rested on a widely-held belief that the government had lied about the case for war. Even so, it remains debatable how far that fact would entirely destroy the basis for a political relation between protesters and government.[13] That is, denials that the BLD has been met, either locally or globally, can be an authentic part of politics. One can say that they can be so only if the demand has already been met, and say that whether this is so holds regardless of the protesters' own views about it. But this retains the protesters' political status only at the cost of rejecting their substantive claim about the policy's legitimacy. If contrarily the account says that the BLD has not been met, again, it puts the protests in the arena of war.

The point can be put in a different way, by noting that liberalism aims to bring the use of force entirely within the scope of the reasonable. For example, *Political Liberalism* deploys "reasonable pluralism" in the form of reasonable disagreement about the nature of the good life or "comprehensive doctrines" as a means of deriving reasonable agreement about the terms of association, including about the use of force. The point of the construction is to create a justificatory frame in which certain such doctrines are ruled out at the start, and are therefore seen as fit targets for the use of force. To this extent, the domain of the reasonable coincides with that of the justifiable, and negatively defines the space in which force is justifiably applied: that is, to doctrines, or their exponents, that do not accept what I will refer to as the *Principles*: that force cannot be justifiably applied to those who agree their doctrines are reasonably rejectable; or, differently, that force cannot be justifiably applied to those who hold doctrines that are reasonable. The two versions come together if it is a condition of being reasonable that one agree that one's particular comprehensive doctrine is reasonably rejectable, and Rawls does appear to make this assumption.[14]

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[13] To summarise a discussion I have pursued elsewhere, while mendacity for obvious reasons seems to void the basis for shared agency between the liar and the lied-to, it is not obvious that the demand this generates for transparency (or at least non-mendacity) can operate at the level of political association as opposed to more specific contractual dealings (such as between vendors and customers). See Newey 2010.

[14] Rawls does not make explicit whether 'reasonable' is applicable to the doctrines themselves – though his usage suggests that this is his meaning – or to way in which they

Glen Newey
Real legitimation, anarchism
and power loop

If so, unreasonable people think that their doctrine is not so rejectable, although in Rawls' view all doctrines are. They are thus eligible for the use of force.[15] However, it is quite possible that people disagree reasonably about which disagreements are reasonable. One obvious ground on which they may do so is because they disagree about how people arrive at their different views, and in particular about how the ethics of belief bears upon that. A version, though not the only one, of that disagreement arises when one person regards as reasonable a set of beliefs that another thinks she holds only as the product of indoctrination. It is of course not self-contradictory to imagine that in such situations, one person is basically right and the other wrong about whether or not she is reasonable in disagreeing with the other – though, equally obviously, few people who disagree believe they are doing so unreasonably. But this is a resource that Rawls, to whom the emergence of disagreement in conditions of freedom is fundamental, is ill-placed to use.

Disagreement may arise not just about what counts as reasonable but also the Principles themselves. It is not clearly unreasonable to deny that force cannot be applied to those whose doctrines are reasonably held, for example because those who hold them think, nonetheless, that they are reasonably rejectable. Perhaps some other considerations simply take priority, examples of which are not hard to imagine. Suppose I think that my doctrine entitles me to emit toxins freely into the environment, even though I also think that other, non-emitting lives are reasonable, and my own can be reasonably rejected by the people living them. It does not seem to follow that the government cannot use force to stop me. Part of the trouble for Rawls is that he never decides between a substantive and purely procedural idea of the reasonable; the underlying problem is that the procedural version lies open to counter-examples like the one just given, while any substantive one faces reasonable rejectability itself.

The upshot of this is that reasonableness is ill-equipped to do the job of demarcating the sphere of politics, as not--violence, and the extra-political state of war. Rawls' specific problems in this area arise from the incoherent

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are held. These are not the same. A reasonable doctrine can be held on unreasonable grounds. I by-pass this complication.

[15] It is common ground that even if it is unreasonable, there may be no warrant for the use of force. I may be implacably convinced that my astrological beliefs explain the nature of the cosmos and regard dissentient views as unreasonable. Nonetheless, if I keep my views to myself, no political question need arise.

Glen Newey
Real legitimation, anarchism
and power loop

demands made of the 'burdens of judgement' in his argument.[16] But the presence of those demands are symptomatic of a wider problem, which serves to put the notion of the reasonable under insupportable strain. That problem is that the quest for a moralised basis for distinguishing justifiable and unjustifiable violence – which, his starting-point notwithstanding, is where Williams goes – cannot be completed, given the historically highly situated reasons that real encounters between people throw up. It remains one of the deeply puzzling features of Williams' later thought – which places so much stress on precisely this feature of reasons – that he endorsed an account of politics that is committed to rejecting it, and to reinstating, in effect, the claims of moralism at the very point where he meant to contest them.

3. Power loop and legitimation

I take the basic political question – a better way of bringing out, in my view, than Williams' "the first political question" the fact, acknowledged by him, that it will keep coming up – to be *What do we do?* It is obvious that this question arises all the time. For whom it arises, and in relation to what deliberative possibilities, are themselves already political questions. It is also obvious that the question admits of more descriptive and more normative inflections, but even where the answer purports to be a descriptive one, as in some of Pericles' funeral oration to the Athenian assembly in Thucydides *History of the Peloponnesian War*, it clearly also may have action-guiding intent. This is not an attempt to define 'politics' or 'the political'. It is simply an attempt to characterise the point from which it begins, or rather begins again. There then arise questions of means, including for instance the forms of force at the disposal of those for whom the question arises.

By the term power loop I will understand the following: a situation where a purported authority or its proxies tries to legitimate itself to those subject to its power, and the legitimation itself exemplifies this power relation; so that the legitimation raises the very question it seeks to settle. By contrast, I shall use the term justification in such a way that it need not involve a power loop. For instance, the form of justification that consists in setting out a proof of

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[16] Rawls 1995, 52ff.

Glen Newey
Real legitimation, anarchism
and power loop

a theorem does not usually instantiate any power relation, still less one that is acceptable only if the justification itself succeeds.[17] Thus understood, to describe a situation as involving a power loop does not specify whether or not the legitimation succeeds. It can always be asked in a power loop whether the legitimation – which takes the form of an answer to the basic political question – is merely a verbal move, symptomatic of the power that it expresses, and to this extent it can be asked whether it succeeds. But the success-conditions remain to be specified. From the standpoint of the authority itself, it may simply be a matter of saying enough to render a population quiescent. Assent procured by these means no doubt strongly contends to be labelled a 'false positive'. But other cases prove less tractable.

In part this is because the real circumstances of in which a given legitimation, L, is made involve contextual factors which may be hard to place in a theoretical reduction of politics. Typically, these factors will include many of the following: the purely semantic content of L; who is delivering L; the audience at whom L is ostensibly aimed, as well as those at whom it is really aimed, which may or may not be different; those neither among the intended nor ostensible audience, who may also hear L; the terms in which L is expressed: the speech-act that those delivering L intend to perform, and the speech-act which the various audiences already distinguished take the speaker as having performed; historical factors that bear on all of these matters, such as the past relations between the speaker and the various audiences, the immediate circumstances of utterance, including the relative power of speaker and audiences, and so on.[18]

One possibility that emerges in contexts of legitimation is that a discourse may be legitimating for one group, but not for another. A good example is the parliamentary debates that occurred in many jurisdictions during the nineteenth century about the extension of the franchise to groups of men previously excluded, such as the urban working class. Few of these debates were directed at members of the groups in question. Instead they were articulated by members of the political class – those already enfranchised – to their peers. Organisations such as the Chartists did exist to voice the demands of these groups outside parliamentary channels, but even here few thought

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[17] This is not to deny that specific examples of any kind of justification may be used in such a way that they embody, or express, relations of power.

[18] See, e.g., Austin 2005; Searle 1969.

Glen Newey
Real legitimation, anarchism
and power loop

about including women either as participants in the demands or among the prospective beneficiaries of reform. What then should be said about the demands, and those voicing them? Democratic agitators were typically educated but politically marginal or excluded tribunes claiming to speak for those kept out of political participation, or at least those whose having been designated as such made them politically visible.

The notion of a power loop is intended to help explain why contextual judgements that are formed within a certain regime where legitimations are made defy thoroughgoing evaluation. Cases where the judgements involve claims about freedom are particularly resistant to correction by theory. When a power loop exists, justifications or other judgements are evaluated in context, whether positively or negatively, by those who are subject to the power that they purport to legitimate. Of course, there is no need for observers to place themselves, sometimes *per impossibile*, inside the context whose legitimations are in question. Take a context that is both familiar (because from the history of incipient parliamentary democracy but also historically remote).

It is tempting, when faced with examples of power used to silence argument, to say that coercion takes away freedom. So, since freedom is a necessary condition of joint agency, and therefore of politics, coercion, by negating joint agency, makes politics impossible. But since force or coercion[19] is a settled feature of political life it makes problematic any generic distinction between it and war. It is not enough to say that politics could be the object of an original agreement, not itself coercive, and that coercion may be used subsequently under agreed conditions. That is indeed possible. But in this case above all, it matters that although such an agreement could hypothetically have been made, it in fact was not. Your objection to being subject to coercion right now is not answered by noting that there is a possible world

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[19] I am avoiding this term in general as it involves well-rehearsed difficulties. Developing a philosophically adequate account of coercion is far from straightforward. The problems are apparent in Robert Nozick's influential "Coercion" (1969, 440-472). Nozick's account relies on the idea that P behaves in a way that makes an action A that Q would otherwise have performed less eligible for her, leading her to perform not-A as a result. But this account fails to distinguish coercion from incentivisation. Since non-performance of A is required by Nozick's account, it also fails to allow for the possibility that Q may be coerced even though she still does A.

Glen Newey
Real legitimation, anarchism
and power loop

in which you would have non-coercively agreed to be coerced – even if your agreement to coercion is imagined to include the very circumstances in which you now find yourself.

States do make their citizens, or subjects, an offer that they cannot refuse, and that the consequences of refusing may prove to be very bad for the refuser. All this is very often obvious to that person and observers, as a visible constraint on what she may do. More insidiously, the state may have simply have succeeded in internalising the habits of obedience in her, whether through propaganda, or schooling and wider processes of socialisation. As noted already, the latter possibility makes it much harder to judge whether or not her acceptance of the state is free. As I shall argue later, that possibility is constitutive, in that there is always a possibility of objecting to a regime of embodied freedom, on the grounds of freedom itself.[20]

4. Anarchism as political moralism

I have argued that the basic political question is, What do we do? Insofar as that question is practical, orientated towards action, it quickly leads to another, namely, What can we do? And that in turn prompts questions about power – who has it, how they propose to use it, to what end, and so on. In the quotation I began with, Clausewitz indicated that politics and war share an end: the contrast he has in mind is between military and diplomatic means. In addition, though, the means as well as the ends overlap each other, and that is partly[21] because the methods of political power and war-making overlap.

Anarchists have often seen this clearly, and the insight can lead to what amounts, in a striking phrase of George Woodcock's,[22] to 'the rejection of politics'. Schematically put, the argument runs as follows:

I. Politics and war share methods that rely on the use of force, including violent ones;

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[20] Another way of putting the point is to say that the condition of consent for a regime must come into possible conflict with any given content for it. I argue this point further in *Rogue Theodicy*.

[21] Partly, because it is plausible to say that they overlap non-instrumentally as well, for example as expressive acts.

[22] See Woodcock 1972.

Glen Newey
Real legitimation, anarchism
and power loop

II. the methods mentioned in I, including some common to politics and war, are morally unjustifiable;

III.it is morally unjustifiable to engage in activities which require methods that are morally unjustifiable;

IV. one should never do what is morally unjustifiable,

which leads to pacifism, as well as the rejection of politics as a practical concern except insofar as its methods can avoid those mentioned in II.

It is clear that the argument rests on moralism, in the form of steps II-IV, that certain actions are simply ruled out as a consequence of their being morally unjustifiable. Liberals share with anarchists the endorsement of IV. But since liberals accept also that politics is morally permissible, and usually accept the moral justifiability of some wars, they are likely to reject II.[23] In this light, the issue regarding the use of force between anarchists and liberals is not over moralism itself as applied to this issue – the demand that the use of force be subject to a regime of moral justification. It is over the tenability of II. Again, the positions coincide practically if, in the world as it is, no actual uses of force can be justified even if in specified conditions they may be. In this way, giving the moral failings of actually existing liberalism, its theoretical counterpart tends towards anarchism: indeed, what is now sometimes called 'empirical philosophical anarchism' is another label for disenchanted liberalism.

When force comes under scrutiny, particularly in the case of structured violence, as in war or counter-insurgency, the problem of justification arises in a particularly sharp form. Liberals find themselves ill-placed to say that such actions meet their moralised conditions on justifiability. They lack a generally accepted theory of 'political obligation' and the ones that win acceptance from some of them are often of little use in determining what acts of structured violence are justifiable; for instance, Wellman's 'good Samaritan' theory, though tailored to the protection activities of the state, says little about the circumstances authorising action on third parties (such as other state or non-state actors), nor does it concert the resources to disrupt some

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[23] Some liberals incline to reject III. Williams perhaps was among them; cf. his well-known remarks that "some situations lie beyond justification" apropos the Godwin question about favouring loved ones in lifeboat-type situations ("Persons, Character and Morality", in Williams 1981, 18).

Glen Newey
Real legitimation, anarchism
and power loop

suggestions that are likely to be unwelcome to the state's apologists, such as its identification with a protection racket.

Again, with consent-based theories, the obligation-triggering condition does not issue in any obvious guidelines about the use of violent force. Nor is this surprising: not just because there is no prospectus that forms the object of consent, but also because, as already argued, the presence of force always renders questionable the terms in which it is legitimated, and that includes terms based on consent. There is of course the Hobbesian answer that the sovereign gets authorised to decide when and what force to use, even if the consent to it is fictive. But even Hobbes, at least in *Leviathan*, does not countenance renouncing one's right to self-defence, or with it the scope for judgement as to when it should be invoked, a fact that threatens reversion to the state of natural war. It is naive to think that first, the justification of authority depends on consent, but also, second, the consent that confers it can be abstracted from the political arena where the force whose justification is in question is being applied. It's at this point that the move to the ideal attracts liberals – to ask what people would think in the absence of force, or at least force of this specific kind. But in general there is no reason to think that that has an answer; or that, even if it did, the answer in this hypothetical no-force environment would be in any way dispositive for how people should act. As the experience of force is not an aberration or singularity in politics, but a constant if not a constitutive feature of it, a retreat to counter-factual situations where it is absent seems to be precisely the wrong way of going about understanding it. This is in line with the humdrum truth that describing some interaction as political is not the same as awarding it, or the people involved in it, a good conduct mark. Any plausible account of politics which does not simply arrogate to itself, as Rawls' later theory did, the right to legislate about what politics ought to be, is going to have to deal with the fact that it is often morally unedifying, and sometimes not as good as that.

As I have suggested, if the issue is fought out on the moralist's ground, anarchists are likely to have the better of it. The problem with anarchism is that it is not a political position – or at least, not unless it answers the basic political question, *What do we do?*. The problems for anarchists will arise soon after that question is posed: for example, if we can't agree on the answer to it, or if other people do not agree with us. But consistently, some anarchists like Woodcock reject politics. In this they do better than liberal moralists, who

Glen Newey
Real legitimation, anarchism
and power loop

both accept politics and reject it. From this angle, actually existing politics gives out a troubling picture, and the relation of projected theory to the landscape of real deliberation is unavoidably blurry.

5. Conclusion

I have argued that Williams' constructivism about politics shares more with 'liberal moralist' approaches to politics than is realistic. This is partly a matter of methodology as well as substance. They share a substantive aim of putting politics onto a normatively committed footing, by excluding morally unjustifiable relations of domination. But they also share a method: namely, the use of a normatively-motivated basis for partitioning politics and not-politics. As I have argued, its use simply serves to raise again at a pragmatic level the question it is intended to answer, and to that extent it fails.

I conclude by drawing two implications from the picture sketched above for the current politics of security.

1. Since the 9/11 attacks the idea has gained currency that the top or a major priority for governments is dealing with 'terrorism', a notion summarised in the phrase 'the war on terror'. Of course, 'the war on war' would wear its self-defeatingness on its face. Is counter-insurgency, as practised currently by western governments, a 'political' or a 'military' response to the 'threat'? It follows from what I have already said that no generic distinction can be drawn at the level either or methods or aims between politics and war.

The phrase is useful at least in making it apparent that the choice is not between politics and violence, but between forms of violence. There is no excluding of violence from politics, and to this extent the Hobbes/Williams picture of politics as a replacement for war is a misleading one. The most that could be hoped for – and it is what liberals hope for – would be an account of legitimate violence: that provides much of the impetus behind the recent revival of 'just war theory'. If that means simply what can be brought within 'the rule of law', it raises the question what legitimates that. It is at this point that anarchists can apply leverage, by questioning how far the demand that acts such as those of war be justifiable to all concerned, can be met. They might ask, for instance, how imaginative a counter-factual

Glen Newey
Real legitimation, anarchism
and power loop

the collateral civilian casualties of drone attacks in Yemen or Afghan-
istan would need for their fate to be acceptable to them in principle
and thus justifiable. They might also wonder whether the more imag-
inative the counter-factual needs to be, the less successful it is likely
to be at its job of underwriting legitimation.

2. Real-world political justification, as applied to the terrorist threat,
constantly reaffirms the need for 'security' from it as prior to the
numerous other lethal risks whose incidence greatly exceeds that of
terrorism.[24] That fact already casts doubt on a purely consequen-
tialist legitimation of 'counter-insurgency' and the broad range of
measures linked to it. More relevantly to the concerns of this paper,
it illustrates the point that violence, particularly by the state, often
goes well beyond what submitted legitimations, even if taken at face
value, warrant. In this setting there is little value in simply pointing
to the gap and concluding that, at any rate, a state in good standing
would limit its actions to those it could morally justify, where this is
assumed to be far more limited than the actions states typically per-
form. A better start would be to accept that human beings are high-
ly aggressive primates whose capacity for violence, spontaneous and
otherwise, expresses itself in their daily actions, and then to think
how far it is possible and desirable to contain or deflect this.

To draw a bright line between 'politics' and 'war' risks simply repli-
cating ideology and thus – ironically – domination.

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[24] See e.g. the data on causes of death in the US (2011 figures) by the US Department
of Health and Human Services: http://www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_06.
pdf. For instance, US citizens were 271 times more likely to die from workplace acci-
dents that year than from terrorism.

Glen Newey
Real legitimation, anarchism
and power loop

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