

**Title:** Lloyd's Orthodoxy

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**Abstract:** In this paper I show that Lloyd's reading of Hobbes's account of political obedience is substantially similar to the account developed by the mainstream philosophical interpretation of his theory. In particular, both readings defend an "orthodox" account of Hobbes's political and legal philosophy. On the orthodox interpretation, the reasonableness of a choice is determined by the "weight" or "balance" of reasons. Citizens have reason to obey because so acting best satisfies their different desires and interests. The practical reasoning that takes into consideration transcendent interests and the one that takes into account mundane desires are structurally similar. The one difference between the two forms of reasoning lies in the fact that transcendent interests always outweigh other first-order considerations, while mundane interests have to find their way in the arithmetic of reasons.

**Key Words:** Lloyd; Law; Obedience; Authority; Reason

# Lloyd's Orthodoxy<sup>1</sup>

## I. Introduction

In her recent *Morality in the Philosophy of Thomas Hobbes: Cases in the Law of Nature*<sup>2</sup> and especially in her previous *Ideals as Interests in Hobbes's Leviathan: The Power of Mind over Matter*,<sup>3</sup> S. A. Lloyd develops an interpretation of Hobbes's moral and political philosophy that challenges many important tenets of the mainstream reading of Hobbes's theory.<sup>4</sup> One crucial point of divergence concerns the way the two interpretations construe the rationale for political obedience in Hobbes. While the approach advocated and developed by David Gauthier, Jean Hampton and Gregory S. Kavka, among others,<sup>5</sup> construes political obedience in terms of legal coercion and citizen's rational self-interest,<sup>6</sup>

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<sup>1</sup> I thank Claudio Amor, Luc Foisneau and Andrés Rosler, who supervised the doctoral dissertation in the context of which I originally wrote the first version of this paper. I also thank the anonymous referee of *Hobbes Studies* for his/her useful remarks on an earlier version. Finally, I thank Laurens van Apeldoorn, David Dyzenhaus and Johan Olsthoorn for their comments and suggestions on the final draft. Of course, the usual caveat applies.

<sup>2</sup> S. A. Lloyd, *Morality in the Philosophy of Thomas Hobbes: Cases in the Law of Nature* (Cambridge, UK: Cambridge University Press, 2009) [Hereafter *MPTH*].

<sup>3</sup> S. A. Lloyd, *Ideals as Interests in Hobbes's Leviathan: The Power of Mind over Matter* (Cambridge, UK: Cambridge University Press, 1992) [Hereafter *IAI*].

<sup>4</sup> In particular, Lloyd argues against a view she calls "standard philosophical interpretation" of Hobbes's moral and political theory. See Lloyd, *IAI*, 7-15 and *MPTH*, 379-381 for her description of this reading.

<sup>5</sup> See D. Gauthier, *The Logic of Leviathan: The Moral and Political Theory of Thomas Hobbes* (Oxford: Clarendon Press, 1969), 90-91 and *Morals by Agreement* (Oxford: Clarendon Press, 1986), 163, J. Hampton, *Hobbes and the Social Contract Tradition* (Cambridge, UK: Cambridge University Press, 1986), 132-133, 134 and G. S. Kavka, *Hobbesian Moral and Political Theory* (Princeton: Princeton University Press, 1986), 24, 88, 139-140, 245-246, 451 and "The Rationality of Rule-Following: Hobbes's Dispute with the Foole," *Law and Philosophy*, 14(1) (1995), 16, 17-18.

<sup>6</sup> For the record, the same account is also adopted by "historicist" or "contextualist" interpretations of Hobbes's political theory. See e.g. Q. Skinner, *Liberty before Liberalism* (Cambridge, UK: Cambridge University Press 1998), 4-10, *Visions of Politics. Volume III: Hobbes and Civil Science* (Cambridge, UK: Cambridge University Press, 2002), 221-225 and *Hobbes and Republican Liberty* (Cambridge, UK: Cambridge University Press, 2008), 158-160, 170-173.

Lloyd claims that for Hobbes obedience to the law is based on reasons that cannot be accounted for in such a narrow framework.

In this paper, I question whether Lloyd's reading of Hobbes's political theory is really so different from the interpretation she challenges, at least in respect of political obedience. Lloyd's account, it is true, challenges the relevance and efficacy of state punishment and fear of death to motivate obedience to the law. This point by itself makes her reading different from mainstream interpretations of Hobbes. However, I argue that her description of Hobbes's account of the reasons for political obedience retains some distinctive tenets of that account. The reasonableness of a choice is on her account, too, uniquely determined by the "weight" or "balance" of reasons. Consequently, citizens have reason to obey the law insofar as so acting best satisfies their different desires and interests. In this respect, Lloyd's reading of Hobbes's political and legal theory does not provide a real alternative to the mainstream interpretation. Introducing the name of "orthodox view" for the account that states that obedience to the law in Hobbes is grounded in terms of subject's first-order reasoning, Lloyd's account can be described as belonging to the set of orthodox interpretations of Hobbes's political and legal philosophy.<sup>7</sup>

Once we recognize that Lloyd's account also belongs to the set of orthodox interpretations, we are able to see that there is conceptual space to ground the rationale for political obedience in Hobbes in a radically different fashion: one that stresses the practical authority of law. Although I will not fully develop this alternative account here, I will sketch the basics of such a reading. Crucially, this heterodox reading introduces the claim

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<sup>7</sup> Stephen Darwall makes a related claim in his early review of *IAI*. According to Darwall, Lloyd's account is not very much an alternative but rather a supplement to the view that grounds political obligation in a narrow prudential fashion. See [Book Review], *The Philosophical Review*, 103(4) (1994), 750. My description of Lloyd's orthodoxy shows why this is so.

that the commands of the sovereign do not give reasons to be added and evaluated on a par with all other reasons agents have to act one way or another. Once Leviathan has been instituted, the reasons subjects have to obey the sovereign derive from his authority. Subjects have reason to comply with the law because the sovereign commands them to do so, and not because so acting best satisfies their desires and interests. Hobbes's "command theory of law" provides textual support for this view.<sup>8</sup>

In the section on "Differences between command and counsel" in Chapter XXV of *Leviathan*, Hobbes states: "Command is, where a man saith, *do this*, or *do not do this*, without expecting other reason than the will of him that says it. [...] [By contrast,] Counsel, is where a man saith, *do*, or *do not this*, and deduceth his reasons from the benefit that arriveth by it to him to whom he saith it."<sup>9</sup> In the subsequent chapter on civil law, he writes: "it is manifest, that law in general, is not counsel, but command [...]"<sup>10</sup> Hobbes's command theory of law expresses the idea that law has genuine practical authority. Law is characterized by its source, whereas counsels are characterized by their content. The commands of the sovereign provide citizens with reasons that do not compete on a par with normal reasons for action in the subject's practical reasoning. His commands replace other considerations they may have for complying (or failing to comply) with the order and provide the relevant reason for obedience.

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<sup>8</sup> This is not the only piece of evidence for this account. For instance, Hobbes's analysis of arbitration also provides important textual support for this view. See *The Elements of Law* I.XVII.6, I.XXIX.8, II.VI.6, *De Cive* III.20, XVIII.2, *Leviathan* V.3, XV.30, XXVI.23.

<sup>9</sup> T. Hobbes, *The English Works of Thomas Hobbes of Malmesbury; Now First Collected and Edited by Sir William Molesworth, Bart.*, (London: Bohn, 1839-45), Vol. III (*Leviathan*), 241. Cf. *The Elements of Law* I.XIII, 6, II.VIII.6, II.X.4, *De Cive* VI.19, XIV.1.

<sup>10</sup> Hobbes, *EW III*, 251.

This alternative interpretation that stresses the practical authority of law has been developed at some length in the literature.<sup>11</sup> However, a detailed study of Hobbes's account of political authority has yet to be written.<sup>12</sup> By exploring where the different interpretations currently stand, this essay prepares new ground for such a study.

The structure of the paper is as follows. In the next section, I describe Lloyd's reading of Hobbes's political and legal theory. In section III, I argue that this account is sufficiently similar to the mainstream reading as to deserve the label "orthodox." In section IV, I investigate to what extent Lloyd's account allows for the authority of law. Finally, in section V I bring the paper to a close introducing some final remarks.

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<sup>11</sup> See D. Dyzenhaus, "Law and Public Reason," *McGill Law Journal*, 38(2) (1993), 373, 381, L. Green, *The Authority of the State* (Oxford: Clarendon Press, 1989), 37 and "Law and Obligations," in J. L. Coleman and S. Shapiro, eds., *The Oxford Handbook of Jurisprudence and Philosophy of Law* (New York: Oxford University Press, 2004), 518, n. 13, H. L. A. Hart, "Commands and Authoritative Legal Reasons," in *Essays on Bentham: Studies in Jurisprudence and Political Theory* (Oxford: Clarendon Press, 1982), 253-254, C. W. Morris, *An Essay on the Modern State* (Cambridge, UK: Cambridge University Press, 1998), 175-176, 214, n. 101, "The Very Idea of Popular Sovereignty: 'We the People' Reconsidered," *Social Philosophy & Policy*, 17(1) (2000), 3 and "State Legitimacy and Social Order," in J. Kühnelt, ed., *Political Legitimization without Morality?* (Heidelberg: Springer, 2008), 23, 31, n. 32, A. Rosler, "Racionalidad y autoridad política," *Documentos de trabajo del CEMA*, 206 (2001), 6, *Political Authority and Obligation in Aristotle* (Oxford: Clarendon Press, 2005), 99, "El enemigo de la república: Hobbes y la soberanía del Estado," in T. Hobbes, *Elementos Filosóficos. Del Ciudadano*, A. Rosler, trans. (Buenos Aires: Editorial Hydra, 2010), 55-60 and "Odi et Amo? Hobbes on the State of Nature," *Hobbes Studies*, 24(1), 98, S. J. Shapiro, "Authority," in Coleman and Shapiro, eds., *The Oxford Handbook of Jurisprudence and Philosophy of Law*, 396, n. 27, S. Sreedhar, *Hobbes on Resistance: Defying the Leviathan* (New York: Cambridge University Press, 2010), 113-119 and E. N. Yankah, "The Force of Law: The Role of Coercion in Legal Norms," *University of Richmond Law Review*, 42(5) (2008), 1210. In addition, R. Harrison, *Hobbes, Locke, and Confusion's Masterpiece. An Examination of Seventeenth-Century Political Philosophy* (Cambridge, UK: Cambridge University Press, 2003), 81-88, 124-131, and J. Saada, *Hobbes et le sujet de droit* (Paris: CNRS Éditions, 2010), 7, 62, 117, 157, 169 emphasize the authoritative character of law but also highlight coercion and rational self-interest.

<sup>12</sup> I develop a comprehensive reading of Hobbes's theory of the authority of law and link it to his account of political obligation in my doctoral dissertation *Political Authority and Political Obligation in Hobbes's Leviathan* (UBA/EHESS, 2012).

## II. Lloyd's Account

In a nutshell, the novelty of Lloyd's reading of Hobbes's political theory involves introducing what she calls "transcendent interests," i.e., interests for the sake of which people may be willing to sacrifice their lives, if necessary. Lloyd's distinctive claim is that the recognition of such interests makes her own interpretation a major alternative to the mainstream reading of Hobbes's political theory that construes political obedience in terms of legal coercion and citizen's rational self-interest.

Lloyd interprets Hobbes's project in *Leviathan* as showing that citizens have sufficient reasons to affirm and uphold a "principle of political obligation":

Because Hobbes holds that people act on their perceived interests, his theory is designed to take seriously the interests that people say they have, providing people with reasons linked to the interests they actually claim as their own, rather than starting from some ideal notion of what interests people "really do" have, or ought to recognize. Hobbes is aiming to identify a principle of political obligation that could, if followed, ensure the perpetual maintenance of effective social order (that is, ensure a commonwealth that could never be destroyed but by foreign war), and that nearly everyone, given what each acknowledges to be his interests, can have sufficient reason to affirm and uphold.<sup>13</sup>

She also writes that

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<sup>13</sup> Lloyd, *IAI*, 51.

Hobbes thought the disorders internal to civil societies [were] generated by transcendent interests [which] can be reliably avoided only if subjects are persuaded that they have, what they can see in their own terms to be, sufficient reason for political obedience. Hobbes aimed to offer a confluence of reasons—prudential, moral, and religious—for political obedience, in the hope that this confluence would motivate most of the people most of the time to obey, thus ensuring sufficient compliance for the perpetual maintenance of effective domestic social order.<sup>14</sup>

Distinctive of Lloyd's reading is her claim that Hobbesian agents have (and see themselves as having) transcendent interests, i.e., interests that override mundane interests such as temporal well-being:

Hobbes was primarily concerned with the social disorder that results from men's acting on transcendent religious interests in doing what they believe to be their religious duty, and in seeking to obtain the eternal reward promised to those faithful who fulfill their religious duties, and to avoid divine punishment for failing to fulfill them.<sup>15</sup>

Lloyd argues that individuals motivated by transcendent interests necessarily accord these interests priority over any of their narrowly prudential interests. This entails that they will to act for the sake of such interests even when facing the threat of capital punishment. Lloyd writes that

Hobbes recognizes that people are capable of having at least four basic sorts of interests: narrowly prudential interest in their physical survival and in

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<sup>14</sup> Lloyd, *MPTH*, xii.

<sup>15</sup> Lloyd, *MPTH*, x-xi.

“commodious living,” moral interests in fulfilling their natural duties and moral obligations, religious interests in fulfilling their duties to God, and “special prudential” interests in achieving salvation. The latter three sorts may be “transcendent,” that is, they may be interests that an individual affords priority over any of his narrowly prudential interests, including his interests in securing his physical survival. One who has an interest in acting morally or in fulfilling his duties to God may be willing to sacrifice his preservation for the realization of these interests, and if so, they are for him transcendent interests. (Interests in the welfare of a loved one, or in enjoying salvation, might also be transcendent in this way.)<sup>16</sup>

Lloyd gives several examples to show that Hobbes is primarily concerned with agents who act on transcendent interests. For instance, she interprets the actions of members of different religious sects in 17<sup>th</sup> century England as motivated by transcendent interests. In addition, she claims that one of the main causes of the English Civil War listed in *Behemoth* are religious believers acting on such interests.<sup>17</sup> In sum:

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<sup>16</sup> Lloyd, *IAI*, 51-52; see also 303 and *MPTH*, 67-68 for another description of transcendent interests.

<sup>17</sup> See Lloyd, *IAI*, 214-215. However, Lloyd says that there is one religious group whose actions cannot be interpreted as motivated by transcendent interests: “of the major groups that instigated the collapse of social order only the merchants acted from an interest (namely, a misguided calculation of self-interest) that was *not* transcendent” (*IAI*, 215). Lloyd’s interpretation is shared by Stephen Holmes: “The causes of the upheaval were not economic and legal, as James Harrington had argued in *Oceana* (1656), but rather psychological and ideological. Civil war broke out because, under complex conditions of shifting political power, key actors were bewitched by irrational passions and tragically misled by doctrinal errors.” In turn, Holmes argues that for Hobbes “Human behavior is motored not by self-interest alone, but simultaneously by passions, interests, and norms” (*Passions and Constraints: On the Theory of Liberal Democracy* (Chicago and London: The University of Chicago Press, 1995), 71, 78; see 78-98 for his account). Also, Jeffrey R. Collins writes that “As any reader of either *Leviathan* or *Behemoth* will immediately see, Hobbes understood the English Revolution as a religious war. A great deal could be said on



To appreciate Hobbes's point, consider not just Christian martyrs in ancient Rome, or various Medieval sects, but today's Hamas, or Al Qaeda engaged in a project of Islamic Jihad. Members of such groups identify their religious interests in ways that can make the sacrifice of their temporal (bodily) self-preservation acceptable, so long as they judge their actions to substantially contribute to their transcendent ends.<sup>18</sup>

Lloyd claims that reasons rooted in transcendent interests *always* outweigh other kind of reasons for action.<sup>19</sup> The main point for this claim seems to be that people who possess such interests regard them "non-negotiable."<sup>20</sup> For this reason, people will sacrifice their lives, if necessary, for the sake of promoting their transcendent interests.

The emphasis on transcendent interests distinguishes Lloyd's reading from the mainstream philosophical interpretation of Hobbes's political theory. According to Lloyd, one key point missed by most of Hobbes's interpreters is that he regards citizens as having transcendent interests and not merely narrowly prudential or self-interested reasons to comply with the law. Given the way such reasons affect practical reasoning, transcendentally motivated citizens will obey the law even if so acting is contrary to the promotion of their

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this topic, but suffice it to say that Hobbes loathed both the supposedly destabilizing otherworldliness of orthodox Christian theology, and what he took to be the seditious designs of Christian clergy to erect dualist structures of temporal and spiritual power" ("Quentin Skinner's Hobbes and the Neo-Republican Project," *Modern Intellectual History*, 6(2) (2009), 360; see also *The Allegiance of Thomas Hobbes* (New York: Oxford University Press, 2005), 10, 69-70).

<sup>18</sup> Lloyd, *MPTH*, 397-398; see also *IAI*, 1. Kavka also argues that the actions of religious fanatics may be described in a similar fashion (although he does not use Lloyd's terminology). See *Hobbesian Moral and Political Theory*, 428-429.

<sup>19</sup> In Razian terminology, such reasons are "absolute." See J. Raz, *Practical Reason and Norms* (New York: Oxford University Press, 1999), 27-28 for Raz's description of absolute reasons.

<sup>20</sup> Lloyd, *MPTH*, 397. Lloyd shows that possessing transcendent interests thus involves the failure of satisfying the continuity axiom of cardinal utility theory. See *MPTH*, 398-400.

narrow prudential interests. In turn, transcendentally motivated agents will disobey if political compliance threatens the promotion of their transcendent interests. Crucially, sheer force is powerless to change this situation, because reason always recommends acting on transcendent interests even if doing so is contrary to the satisfaction of narrow prudential interests such as an interest in avoiding physical pain. Threats for non-compliance are unable to motivate agents whose transcendent interests are at stake. For this reason, Lloyd argues that the account on which state coercion is sufficient to make a commonwealth stable just gets things wrong:

On that interpretation, Hobbes is said to have held that we can achieve enduring social order simply by creating a sovereign to coerce, by credible threats of physical force, our compliance with his laws. Indeed, such a solution might have some hope of succeeding did people care most to avoid bodily death. But because Hobbes insists that they do not, and further insists that men will disobey the political authority that without their obedience cannot secure civil peace whenever they believe their religion requires it of them, Hobbes's theory will have to address men's religious beliefs if it is to solve the problem of recurrent social disorder.<sup>21</sup>

### **III. Lloyd's Orthodoxy**

In this section, I will argue that Lloyd's take on Hobbes is orthodox after all, and so substantially similar to the reading she criticizes. In particular, I will show that the introduction and consideration of transcendent interests does not make Lloyd's

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<sup>21</sup> Lloyd, *MPTH*, 69.

interpretation any less orthodox than readings that emphasize sanctions for non-compliance as the key factor in motivating agents to comply with the law.

Transcendent interests provide first-order reasons for action<sup>22</sup> that compete in the agent's practical reasoning with narrowly prudential considerations such as physical survival or commodious living. Thus, for Lloyd citizens have reason to comply with the law because compliance best promotes their interests broadly construed. Agents that obey the law because so acting best satisfies their transcendent interests do not reason differently than those who obey the state because they are motivated by narrow considerations such as fear of state punishment; both kind of agents act on first-order reasons. For instance, religious believers that obey the law because they believe this best satisfies their duties to God (or because they believe this best satisfies their religious interests in achieving salvation) and hard-core egoists that obey the law because the law would punish them if they do not comply, are alike in obeying the law because this is what their balance of reasons recommends. They merely differ in their evaluation of what is a relevant reason to comply. In other words, in spite of their differences, the reasoning that takes into consideration only the agent's mundane desires and the one that takes into account transcendent interests are structurally alike. Those that comply with the law because they promote their transcendent interests and those that comply with the law because they find that obeying the law is the best way to satisfy their own self-regarding desires and interests act for the same kind of reasons. In both cases, political compliance is based on the subject's evaluation of what it is best for them (although of course they differ in the content of their evaluations). The only difference is that in the first case transcendent interests

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<sup>22</sup> In general, first-order reasons for action are interests, preferences, etc. that are relevant and sufficient to justify actions.

always outweigh other first-order considerations, while in the second case mundane interests have to find their way in the arithmetic of reasons. Lloyd's account thus maintains intact the core of the orthodox reading: citizens would have reason to obey because so acting best satisfies their desires and interests.

This account contrasts with a view that assigns genuine practical authority to the sovereign's commands. On this reading, authoritative directives do not replace other considerations for action by virtue of their strength or weight, as ordinary reasons for action do. Rather, as Joseph Raz argues, authoritative reasons are "pre-emptive": "the fact that an authority requires the performance of an action is a reason for its performance which is not to be added to all other relevant reasons when assessing what to do, but should exclude and take the place of some of them."<sup>23</sup> Authoritative reasons are reasons of a different *kind* or *type* from normal reasons for action which in absence of authoritative commands provide enough reason to justify actions. Authoritative reasons exclude and take the place both of reasons that would have been defeated and reasons that would have inclined the balance of reasons. Thus, authoritative commands are what Raz also calls "protected reasons for action," i.e., a systematic combination of both first-order reasons to act and "exclusionary reasons" or reasons for not acting on valid first-order reasons.<sup>24</sup> The crucial point to consider here is that the conflict between authoritative directives and ordinary first-order reasons for action is not resolved in terms of the relative strength or weight of the different reasons involved but, rather, by the general principle of practical reasoning that determines that second-order considerations always prevail over first-order reasons. Second-order

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<sup>23</sup> J. Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 46, italics removed. For the record, Raz argues that this analysis is valid only for *de jure* authorities.

<sup>24</sup> See J. Raz, "Legitimate Authority," in *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon Press, 1979), 17-18.

reasons defeat first-order reasons by being reasons of a different kind rather than by having greater strength or weight.<sup>25</sup> Authoritative directives thus do not outweigh but rather exclude (some) first-order valid reasons and take the place of these excluded reasons.

With this picture in mind, we can now see more clearly in what way Lloyd's account is orthodox. Lloyd's reading rules out state coercion as an appropriate way to move agents to comply with the law and so denies a characteristic element of the orthodox interpretation. Yet Lloyd keeps intact the conceptual core of this reading and so it leaves its normative framework intact. Contrary to the reading that emphasizes the practical authority of law, Lloyd claims that agents would have reason to obey the law because first-order considerations of different kinds (including prudential, moral and religious interests) all recommend so acting.

#### **IV. Is There a Place for Authority in Lloyd's Account?**

So far, I have argued that transcendent interests introduce weighty first-order considerations that have to find their way in the citizen's practical reasoning, unlike authoritative commands that defeat other reasons for action in terms of kind. In this section, I will examine whether Lloyd's interpretation makes room for an account that stresses the practical authority of law. In particular, I will explore whether Lloyd's account broadens

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<sup>25</sup> Raz, *Practical Reason and Norms*, 40, 190. Raz introduces different examples to illustrate this feature. One is a temporal incapacity. A sleepless night or a strong headache might constitute a reason for not acting in certain way even though from the first-order deliberative standpoint taking a certain action, e.g., a business decision, might be justified. Other examples include the following of military orders and the fulfillment of promises. Raz argues that orders and promises are not reasons that tip the balance of reasons but, rather, reasons for not acting on the first-order balance of reasons. See *Practical Reason and Norms*, 37-39; see 35-48, 182-186 for a detailed account of exclusionary reasons.

the horizon of Hobbesian practical reason to include both first-order considerations and second-order or authoritative reasons for action.

There are two reasons to think that Lloyd's reading can account for the practical authority of law.<sup>26</sup> First, she emphasizes that private judgment about what the natural law requires is the defining characteristic of the state of nature. This introduces the thesis that the renunciation of private judgment is a necessary condition for peace.<sup>27</sup> Second, Lloyd's interpretation of natural and positive law as "self-effacing" may make room for the same point. Natural law imposes upon subjects a moral duty to comply with civil law, even if so acting involves violating particular laws of nature.<sup>28</sup> These two ideas introduce conceptual resources necessary to develop a heterodox reading of Hobbes's political and legal philosophy. An agent treats orders or rules as authoritative if and only if she regards them as providing sufficient reasons for acting as required. This claim is true even if she does not believe they are good reasons for so acting, would have acted in a different way in case of not having the authoritative reasons, or thinks the authority is mistaken.<sup>29</sup> Lloyd's two theses point in this direction. In addition, there is further textual evidence to ground the idea that Lloyd's account accommodates the authority of law in Hobbes. Lloyd occasionally says that the characteristic feature of the sovereign is his authority, that the sovereign's commands are authoritative and that he plays the role of an arbitrator.<sup>30</sup>

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<sup>26</sup> I thank the anonymous referee of *Hobbes Studies* for calling my attention to these features of Lloyd's interpretation.

<sup>27</sup> Lloyd, *IAI*, 260-265 and *MPTH*, 120, 213-214, 217-219, 226, 248, 265-266, 273-274, 279-280, 375, 394.

<sup>28</sup> Lloyd, *MPTH*, 263-289, 372.

<sup>29</sup> See Rosler, *Political Authority and Obligation in Aristotle*, 97. Rosler here follows J. Finnis, *Natural Laws and Natural Rights* (Oxford: Clarendon Press, 1980), 233-234.

<sup>30</sup> See Lloyd, *IAI*, 222-223, 264, 364, n. 17, *MPTH*, 5, 25-26, 84, 134, n. 79, 214, 215, 247-248, 264, 266, 273-274, 279-280, 288-289, 342, 352-353, 363, 375, 387-388 and "The Moral Philosophy of Thomas Hobbes: A Reply to Critics," *Hobbes Studies*, 23(2) (2010),

Nevertheless, I do not think these considerations are sufficient to allow for account of practical authority in Hobbes. For Lloyd's interpretation does not express a detailed account of political authority. She does not provide an account of the way authorities affect practical reasoning. Moreover, there is a deeper concern that militates against construing an account of political authority out of Lloyd's reading.

To show this, we need to make a little detour. Lloyd argues that ideals play a major role in people's lives, both in causing conflict and in resolving it. She maintains that Hobbes seeks to show that religious commands, properly understood, never require political disobedience. Lloyd thus claims that the appropriate move to solve the conflict is to re-describe citizen's transcendent interests in such a way as to show to citizens that they have reason to obey the law by offering them transcendent reasons grounded in religious considerations.<sup>31</sup> Persuasion, not coercion, is the key to resolve conflict among rational agents.<sup>32</sup>

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182, 184-185 for several remarks in this vein. But see also *MPTH*, 291-293 where Lloyd identifies the will of the sovereign and the subject's will. This account attempts against the authoritative character of law. Crucially, following authoritative commands involves acting because other person or institution (i.e., an authority) requires one so to act.

<sup>31</sup> See Lloyd, *IAI*, 44-45, 106-107, 189-190 for an account of what is involved in the re-description of citizen's transcendent interests. Lloyd argues that Hobbes's project crucially includes the idea that "the proper description of their interest in fulfilling their duties to God [is] 'an interest in professing, practicing, and acting as the appropriate religious authority dictates'" (*IAI*, 107). In turn, she claims that Hobbes's account introduces the idea that "*what* we believe must be a function of *whom* we believe" (*IAI*, 108; see also 216 and *MPTH*, 369). Of course, Hobbes argues that the appropriate religious authority is the political authority, i.e., the sovereign.

<sup>32</sup> For instance, Lloyd writes that "Hobbes's attempt to provide everyone with a sufficient reason for adhering to his principle of political obligation [...] [is] dictated by his recognition that effective social order depends on *compliance* with the laws made by the political authority—that it depends on the *obedience* of subjects—and that compliance is most effectively obtained when people can be persuaded that they have what they can see, in their own terms, as sufficient reason for compliance" (*IAI*, 100-101).

Lloyd proceeds to argue that the project of *Leviathan* is to show that citizens have a concurrence of several different first-order reasons to obey the law. Lloyd claims that Hobbes endorses a “doctrine of the unity of practical reason” according to which all normative requirements are perfectly compatible.<sup>33</sup> The reasons for political obedience consist in a concurrence of narrowly prudential, moral, religious, and “specially prudential reasons,” i.e., reasons that take into account the afterlife.<sup>34</sup> All these considerations recommend that citizens comply with the principle of political obligation that states that “subjects owe to sovereigns, simple obedience, in all things wherein their obedience is not repugnant to the laws of God [...]”<sup>35</sup>

As far as I can see, it follows that the distinctive requirements introduced by the law must be perfectly consistent with the citizen’s desires and interests (broadly construed) to influence behavior.<sup>36</sup> Thus, Lloyd is committed to the thesis that people will disobey the law when they find it in their interest to so act,<sup>37</sup> even though she construes such interests in a broad rather than a narrow fashion. For this reason, Lloyd claims that the sovereign’s authoritative adjudication of disputes should be accompanied by “the other essential functions of government with it,” especially the mechanisms for making and enforcing laws, “for otherwise it would be vain.”<sup>38</sup> She concludes that “the *practical* effect of our

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<sup>33</sup> See Lloyd, *IAI*, 266, 278-280 and *MPTH*, 356-358.

<sup>34</sup> See Lloyd, *IAI*, 52, 88-98, 151-157, 227-228, 267-268, 278-280, 299-308 and *MPTH*, 103-104, 333-334, 343, 357-358, 406 for different references and arguments for this thesis. Kavka also develops an account along similar lines in *Hobbesian Moral and Political Theory*, 21, 383-384.

<sup>35</sup> Hobbes, *EW* III, 343. Cf. *De Cive* XI.6, XV.1, XVIII.13, *Leviathan* Conclusion 17.

<sup>36</sup> I acknowledge that this point may be understood in a different fashion by other readers of Lloyd’s work.

<sup>37</sup> See e.g. Lloyd, *IAI*, 156.

<sup>38</sup> Lloyd, *MPTH*, 280; see also *IAI*, 139, 144.



account [of the sovereign's authority] is indistinguishable from standard accounts [that stress coercion as the key feature of the law].”<sup>39</sup>

However, it is by no means necessary that the sovereign's commands order citizens to act in the same way as their own desires and interests dictate. Accordingly, an account that highlights practical authority as the key feature of the law may have practical effects fundamentally different from an orthodox account that stresses the law's allegedly coercive nature.<sup>40</sup>

The authoritative commands of the sovereign may point in the same direction as do first-order recommendations. After all, the penalties attached to the law aim to make authoritative and narrow self-interested reasons to obey converge—state sanctions for non-compliance are introduced with the goal of changing the structure of pay-offs in such a way as to make compliance with the law prudentially rational. However, the law may also require acting in ways contrary to the citizen's rational self-interest in particular and first-order considerations in general. Crucially, to comply with such orders is neither anomalous nor irrational. The sovereign's authoritative commands are not merely incentives to promote the efficient satisfaction of the agent's desires and interests but rather introduce new reasons for action (although reasons of a different kind than normal reasons for action).

Let me explain this point. Agents may act contrary to the balance of first-order reasons when complying with authoritative commands. For instance, the law commands that citizens pay a certain amount in taxes, while (in some circumstances) the balance of

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<sup>39</sup> Lloyd, *MPTH*, 280.

<sup>40</sup> In my opinion, this is a plus rather than a minus of the account that stresses the authority of law. State coercion is a two-edged sword to ground political compliance, insofar as it may recommend obeying but (depending on the circumstances) it may also recommend disobeying the law.

first-order reasons may recommend acting otherwise. However, agents do not necessarily act against reason when complying with such requirements. Authoritative directives introduce reasons even though they are reasons of a different kind than ordinary (i.e., first-order) reasons. Exclusionary reasons are second-order reasons and, as such, are not reasons for action. As noted above, however, authoritative commands normally combine a first-order reason to do as commanded and a second-order reason that excludes acting on other first-order reasons. Thus, following authoritative orders may entail acting contrary to the balance of reasons without thereby making agents act irrationally or against reason; agents act for genuine reasons when complying with authoritative commands and so their actions are grounded in reason rather than in arbitrary or unjustifiable considerations.<sup>41</sup> However, they may not best serve their interests so acting.<sup>42</sup>

Although Lloyd's account does not allow agents to act contrary to the balance of reasons, the normal exercise of practical authority may require such a way of acting. For this reason, Lloyd's interpretation cannot account for the claim that acting on the basis of first-order considerations may be incompatible with acting on the basis of authoritative commands. Lloyd's reading would then entail the thesis that rational agents have to act on the basis of their balance of reasons; otherwise they would be irrational. In contrast, when emphasizing the practical authority of law we reach the opposite claim: citizens should

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<sup>41</sup> See Raz, *Practical Reasons and Norms*, 61-62. Raz's distinction between two different levels of practical reasoning dissolves the so-called "paradox of authority and rationality."

<sup>42</sup> In fact, whether this is the case or not at the end of the day depends on the justificatory argument provided for political authority. For instance, Raz's "normal justification" of practical authorities introduces the claim that subjects serve their interests better by not acting on their own judgment. See Raz, *The Morality of Freedom*, 53-57. But Raz's is not the only way to justify political authorities. In fact, Hobbes's and Raz's theories come apart here. Raz's substantive account of authority (i.e., the normal justification thesis) is instrumental, while Hobbes's theory is non-instrumental but is rather a highly idiosyncratic form of contractarianism.

obey the law even if so acting is not recommended by the balance of reasons, at pain of acting irrationally.<sup>43</sup>

## V. Some Final Remarks

This paper argued that in respect of the kind of reasons for action Hobbes engages for political obligation, Lloyd's reading does not, in fact, depart from the mainstream interpretation of his political and legal philosophy. Lloyd follows the reading that construes political obedience in terms of legal coercion and citizen's rational self-interest in claiming that the reasonableness of a choice is determined by the weight or balance of reasons in general and in particular that citizens would have reason to obey because so acting best satisfies their different desires and interests. Lloyd challenges the relevance and efficacy of sanctions to motivate obedience to the law. But this does not render her reading any less "orthodox" in respect of political obligation, since according to Lloyd the relevant considerations to be taken into account for compliance with the law are first-order reasons. Her main point is that these first-order reasons are not exclusively narrowly prudential, but may include moral, religious, and specially prudential reasons as well.

I have outlined an alternative to this orthodox explanation of the rationale for political obedience. According to the suggested interpretation, authority, rather than coercion, is the distinctive feature of law. State commands are not just threats against noncompliance, but orders that provide agents with new reasons for action. Authoritative reasons for action, issued by a legitimate sovereign, exclude and take the place of other *prima facie* legitimate reasons for action, including narrow prudential considerations as

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<sup>43</sup> Of course, this account introduces further questions. A pressing worry is whether Hobbes's moral psychology allows accommodating authoritative reasons for action.

well as the different sorts of reasons Lloyd emphasizes. Authoritative orders pre-empt these different reasons for action in virtue of their kind rather than their weight. The contingent role that prudence (whether narrowly or broadly construed) plays in political compliance is irrelevant (at least when directly taken into consideration) for the way Hobbes exposes the reasons to comply with the law. In fact, the reasoning which takes into consideration threats to motivate political compliance is strictly speaking inadequate since threats are not authoritative reasons for action.<sup>44</sup> I have argued that Lloyd's account, like the reading that emphasize legal coercion and the citizen's rational self-interest, cannot account for authoritative orders to motivate political obedience.

It goes beyond the scope of this paper to satisfactorily articulate and develop a full reading of the authority of law in Hobbes. Here I have merely tried to prepare the ground for such an account, by exploring the conceptual requirements for such a view.

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<sup>44</sup> See Raz, *Practical Reason and Norms*, 161-162.