Realist legitimacy

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Abstract

This thesis is an investigation of realist theories of political legitimacy, with a particular focus on two realist accounts of legitimacy – those of Amanda Greene (2019) and Bernard Williams (2005). Many theorists have taken the view that realist accounts of legitimacy clearly provide an insufficient normative standard of legitimacy. This thesis provides a challenge to such critics by offering a partial defence of (some kinds of) realist accounts of legitimacy as providing a viable normative standard of legitimacy. The thesis argues, first, that realist theories of legitimacy have more impressive normative implications than might be thought, and second, that there are good reasons to reject forms of critique of realist legitimacy based on 'external' moral standards. This latter argument is based on an understanding of realist legitimacy as offering an 'internalist' standard for the moral evaluation of states' rule.

Impact statement

This thesis is intended as a contribution to the understanding of so-called 'realist' theories of legitimacy. It aims to contribute both to the philosophical understanding of legitimacy, as well the broader debate in political theory between 'realists' and 'moralists'. The thesis provides an evaluation of realist theories of legitimacy, what forms these take, and whether or not they provide a viable normative standard of legitimacy. The arguments add up to a partial defence of some types of realist accounts of political legitimacy.

Chapter 1. Introduction

When is the state's rule legitimate? Traditional answers to this central question of political philosophy have ranged from theories based on consent (actual or hypothetical), to theories of fair play, natural associative duties, and duties of justice. Self-avowedly 'realist' political theorists have a different answer. Whether or not a state is legitimate depends, these theorists argue, on subjects' beliefs and attitudes about rule. More specifically, it depends on whether subjects accept the state's rule, or whether the state's rule is in some sense acceptable to them. This thesis is an investigation of such realist theories of political legitimacy, with a particular focus on two realist accounts of legitimacy, those of Amanda Greene (2019) and Bernard Williams (2005).

Many theorists have taken the view that realist accounts of legitimacy clearly provide an insufficient answer to the question of legitimacy (see e.g. Wendt 2016, 2018; Estlund 2017, 2020). Such critiques are typically based on the idea that realist theories of legitimacy do not entail the kind of normative upshots we should expect from a theory of legitimacy. These critics argue that the necessary 'normative upshots' – often phrased in terms of the state's moral right or permission to rule, and subjects' obligation or strong reasons to comply with such rule – are not delivered by realist theories of legitimacy, and hence, they fail.

My thesis asks the same question as these critics of realist legitimacy – namely, are realist accounts of legitimacy viable as normative theories of legitimacy? My argument add up to a partial defence of some kinds of realist theories of legitimacy.

I begin to examine realist theories of legitimacy by providing an overview of what forms realist theories of legitimacy can take, and by examining the normative implications of these. I ask questions about how realist theories of legitimacy fare in relation to the normative upshots typically posited as success conditions for a theory of legitimacy, but also enquire about the broader normative implications of realist accounts of legitimacy. I do this for several reasons. First, the normative upshots of the kind mentioned above – whether or not the state has a right to rule, whether we ought to obey, and so on – clearly matter. One of the reasons why the question of legitimacy has been so central to political theory for so long is that people want to know what moral standing states have, and whether we have a duty or a reason to comply with the state's directives (or support it in other ways). Second, the realists I am interested in claim that their accounts of legitimacy are normative. If the normative implications of realist legitimacy are not of the kind traditionally expected from a theory of legitimacy, then what do they consist of? Third, many political theorists have

underestimated the normative importance of acceptance to rule as a component of legitimacy, and thus, I think, have something important to learn from realists.

It is clear, however, that even though the normative implications of realist legitimacy are important, realist theories struggle to produce the kinds of normative upshots which are typically expected from a theory of legitimacy. In the last chapter, I take a step back and consider some of the most promising arguments which suggest that realist accounts of legitimacy shouldn't be faulted for failing to deliver on certain pre-specified normative upshots. I find one such argument, in particular, convincing. This argument holds that realists are developing a standard of legitimacy which is 'internalist', based solely on the resources available in the political context at hand. I show how Williams and Greene can both be interpreted as developing internalist accounts of legitimacy and in what ways this shields them from some forms of moral critique.

In this chapter, I begin to explore my subject by first attempting to specify, in greater detail, what a realist account of legitimacy is. I outline what I take to be two main kinds of realist theories of legitimacy, based on different ways of conceiving the relationship between the state's rule on the one hand, and subjects' beliefs and attitudes towards the state on the other. I discuss what I take the object of legitimacy to be and provide an overview of the kinds of normative upshots that legitimacy might imply. This discussion of different kinds of normative upshots will guide the argument in the following two chapters.

1.1 Realist accounts of legitimacy

As a first approximation, I will call 'realist' those theories of legitimacy which hold that whether or not a state is legitimate is, to a great extent, determined by its subjects' beliefs and attitudes towards the state and its rule. Realist conceptions of legitimacy make legitimacy primarily a question of subjects' actual attitudes and beliefs toward the state, rather than a question of subjects' reasons for accepting or complying with the state's directives.

Realist theories of legitimacy should be distinguished from consent theories, on the one hand, and what we might call 'rational acceptability' theories, on the other. Consent theories of legitimacy hold that subjects' consent to rule is a necessary (and sometimes sufficient) condition for rule. Rational acceptability theories of legitimacy, such as those commonly proposed by theorists working in the public reasons tradition, hold that legitimacy is a matter of subjects having sufficient reason to accept the state's rule, or of the state's rule being such that reasonable subjects would accept it.[1]

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[1] See e.g. Gaus (2010), Rawls (2001).

The 'beliefs and attitudes' at play in realist theories of legitimacy do not constitute consent. Consent is typically understood as requiring not only the right kind of beliefs or attitudes on the part of the consentee, but a specific act or behaviour which expresses the voluntary undertaking of political obligation. The realist notion of acceptance does not include any such specific act, behaviour or transaction between the individual and the state.[2] Consent theorists posit universal consent as a necessary condition of the legitimacy of states; realists reject this as an "insatiable ideal" (Williams 2005, p. 136), one which is not (and could not) be met by any actual states. Realists are committed to the idea that some actual states are legitimate, and this commits them to a notion of acceptance which falls short of consent.

The distinction between realist theories of legitimacy and 'rational acceptability' theories of legitimacy is less clear-cut, and my initial definition may not seem to provide the basis for a sharp distinction. However, those who posit 'rational acceptability' as the grounds of legitimacy tend to exclude some subjects from the constituency of public justification, and/or hold that justification of rule need only be acceptable to subjects' idealised counterparts. In this way, such theorists depart from the realist's determination to ground legitimacy on *actual* subjects' *actual* beliefs and attitudes. (I discuss the differences between realist theories of legitimacy and 'rational acceptability' theories of legitimacy in greater detail in Chapter 3.)

We might, then, refine the initial definition of a realist account of legitimacy slightly. A realist account of legitimacy is one which holds that whether or not a state is legitimate is, to a great extent, determined by its *actual* subjects' *actual* beliefs and attitudes towards the state and its rule. We might add, further, that realist theories of legitimacy are committed to legitimacy being an *attainable* standard. That is, it must be possible for some actual states to be legitimate.

My definition includes both descriptive and normative accounts of legitimacy, but I will only be interested in normative accounts of legitimacy here. I understand an account of legitimacy as 'normative' if it presents some standard of good or rightful rule. Descriptive theories of legitimacy tend to hold that legitimacy is determined by whatever subjects acknowledge as legitimate, or whatever can be justified in terms of subjects' beliefs. The theories I am interested in all lay down some further (normative) conditions about what kinds of acceptance or acceptability count towards legitimacy. The motivation for such extra conditions is that some forms of acceptance and acceptability clearly do not contribute towards good or rightful rule, and hence do not

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[2] However, as I will show in Chapter 2, there are weaker and stronger notions of acceptance, and consent can be understood as acceptance which meets certain stringent normative criteria and is expressed or communicated appropriately.

contribute towards a normative account of legitimacy.[3] For ease, I will call all normative accounts of legitimacy which are not realist 'moralist'.[4]

To understand why one would propose a theory of legitimacy in this vein, we might start by looking at some of the motivations of the proponents of these theories (who I will call 'realists'). First, realists tend to have several objections to other accounts of legitimacy. Realists are critical of standards of legitimacy which fail to take adequate account of the distinctiveness of legitimacy as opposed to other standards of political evaluation, such as justice. They tend to criticise consent theories for using an impossibly high standard of legitimacy, and hypothetical consent or rational acceptability theories for being too divorced from real subject's concerns. Theories of legitimacy which posit democracy or respecting liberal rights as necessary conditions of legitimacy are accused of insensitivity to history and political context. This list is not exhaustive, but contains some of the most important critiques of moralist theories of legitimacy which realists make.[5]

Further, realist theories of legitimacy aim to capture the idea that whether or not the state's power is practiced in accordance with subjects' beliefs about how such power should be practiced is of paramount importance for legitimacy. A focus on subjects' actual beliefs and attitudes makes realist theories of legitimacy sensitive to real political situations and the norms present within these. Finally, some realists are concerned with developing a notion of legitimacy which is closer to the term 'legitimacy' as used in everyday politics, and which, further, can provide a link to the notion of legitimacy which is studied in political science and sociology.[6]

These points all concern the relative merits of different kinds of theories of legitimacy. There is one additional reason to posit a realist theory of legitimacy, which stems from the broader methodological debate between realists and moralists. The debate between realists and moralists in recent political theory has often taken as its starting point the contrast Williams draws between two methods of doing political theory. Williams defines as moralist any theory which makes the "moral prior to the political" and contrasts this with political realism, which doesn't make the moral prior to the political in the same way, but instead gives "greater autonomy to distinctively political thought" (2005, p. 3). Realists, then, tend to think that there is something inappropriate

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[3] Note, however, that an account of legitimacy can be 'descriptive' in the sense outlined here and still have normative implications. E.g. Greene (2017b) argues that Weber's account of legitimacy, commonly understood as descriptive, has significant moral implications. What Greene adds to Weber's account of legitimacy is an argument about the moral value of Weberian legitimacy, which, she argues, justifies using Weberian legitimacy as a standard for the moral evaluation of states.

[4] This is not the way in which the distinction between realists and moralists, in general, is typically drawn, but it will be helpful for the purpose of this thesis.

[5] All of these arguments are present, in some form, in both Greene's (e.g. 2017a, 2019) and Williams' (2005) writing. They are also widely present in the broader realist literature.

[6] This is true especially of Greene. See e.g. Greene (2017b).

about using a moral principle which is 'prior to the political' and making such a principle part of the success condition of a theory of legitimacy. What we should make of these remarks of Williams', however, is contested. I return to this issue in Chapter 4.

1.2 Kinds of realist legitimacy

I distinguish between two kinds of realist theory of legitimacy, based on the way they conceive of the relationship between the state and its subjects' attitudes and beliefs:

> **Legitimacy-as-acceptance:** The state's legitimacy is grounded in or based on the acceptance, approval or assent of subjects
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> **Legitimacy-as-acceptability:** The state's legitimacy is grounded in or based on the possibility of justifying the state's rule in terms of subjects' beliefs and attitudes towards such rule – in other words, the 'acceptability' of such rule

I characterise Greene's (2016, 2019) account of legitimacy as "quality assent" as a legitimacy-as-acceptance theory, and Williams' (2005) account as a legitimacy-as-acceptability view. However, these kinds of realist accounts are not mutually exclusive. I show, in Chapter 3, that Williams' account, while it puts focus on the justifiability of rule in terms subjects can accept, it also includes elements of an acceptance theory of legitimacy.

In the way that I present them here, legitimacy-as-acceptance and legitimacy-as-acceptability represent different forms that realist theories of legitimacy can take; they are not fully worked out accounts. Both kinds of account hold that some kind of congruence between subjects' actual beliefs and attitudes and the state's rule is a necessary condition (and perhaps constitutive part) of legitimacy. Fully worked out accounts of each type will specify further necessary conditions of legitimacy. Specifically, they will specify conditions under which acceptance or acceptability contribute towards legitimacy. Specifying such further conditions seems necessary for any realist who wants to reject the possibility that cases of systematic and widespread false consciousness or unchecked violent oppression of some group of subjects could represent cases of legitimate rule.

On a legitimacy-as-acceptance view of legitimacy, subjects' acceptance or approval of rule grounds legitimacy. This type of realist account is structurally similar to consent theories of legitimacy. The motivating thought behind these accounts appears to be the idea that, although securing actual or tacit consent from subjects is too high a bar to set for legitimacy, we should not completely let go of the ideal of voluntary rule suggested by consent theorists. To the extent that subjects accept or approve of rule not merely because of coercion or manipulation, such rule appears at least semi-

voluntary. I discuss how acceptance, in various forms, contributes towards the state's legitimacy in Chapter 2.

On a legitimacy-as-acceptability view of legitimacy, legitimacy is based on the justifiability of rule in terms of subjects' actual beliefs and attitudes, instead of being based directly on subjects' acceptance of rule. This kind of view bears some structural similarity to hypothetical consent or rational acceptability theories of legitimacy, in that they ground legitimacy in the justifiability of rule to subjects, in terms of reasons those subjects could accept. As we will see in Chapter 3, however, the notion of acceptability that the realist uses is very different from the notion of acceptability used on other theories of legitimacy.

1.3 The object and normative upshots of legitimacy

So far, I have spoken of the legitimacy of the state and the state's rule, in general terms, but it will help to be slightly more precise. We do not just speak of the legitimacy of states, but also the legitimacy of specific governments, institutions, laws, policies, etc. While there are doubtlessly important things to be said about legitimacy in each of these cases, I will primarily be concerned with the legitimacy of states, and to be more specific, the legitimacy of the state's rule. By the state's rule, I mean the state's issuing of directives and the use of (threats of) force to back these up. In other words, the notion of rule covers two aspects of the state which seem essential to the way it operates: first, its claim to authority, and second, its use of coercive power to back up its commands. The notion of 'rule' is meant to capture what is characteristic about how modern states operate.[7] States are not unique in claiming to have practical authority and using such authority to issue directives, and states are also not unique in claiming to be justified in their use of coercive force. What makes states unique is the combination of this practical authority with a monopoly over the use of violence within a given territory. States claim to have the final say on who gets to use violence over whom and under what circumstances and tend to have significant ability to back their directives up with the use of force (including physical force, sanctions such as fines or the removal of certain privileges, or the threat of imposing these).[8]

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[7] States do many things besides command and use coercive force to back their commands up. They allocate tax money, build bridges, and get involved in international diplomacy. The claim is not that the function of states can be reduced to 'rule', but rather that the state's 'rule' is what we're interested in justifying. These features of the state are what most theorists have considered stand out in need of justification. Some, however, question this narrow focus on authoritative commands backed up by force. Why should the state's coercive authority be in greater need of justification than the state's non-coercive acts power (e.g. engaging in diplomacy or building bridges)? Some theorists specify the object of legitimacy as a combination of the state's authority and power (one of these theorists is Greene (2019).

[8] The phrase 'monopoly over the use of violence' masks both a descriptive and a normative claim. To be more precise, I understand a state as an entity which has successful monopoly over (some) kinds of violence in a given territory. An entity must have monopoly over certain large-scale or particularly disruptive forms of violence in order to be a state. This is compatible with it not having monopoly over

If a state is legitimate, we expect this to have some normative implications.[9] These are crucial for our understanding of legitimacy, so much so that it has been common for philosophers to simply *define* legitimacy in terms of the most important normative implications of their preferred account of legitimacy. The normative implications commonly discussed in the literature on legitimacy are of a specific kind – I will call them 'normative upshots'. 'Normative upshots' specify what bearing legitimacy has on the rightfulness or the permissibility of the state's actions, and/or how subjects in turn should relate to those actions. 'Normative upshots', as I understand them, do not exhaust the normative implications of a theory of legitimacy. Rather, they specify normative implications of a specific kind, namely, the moral status of the state's actions and how subjects, in turn, ought to relate to these. The broader normative implications of a theory of legitimacy might include considerations like how legitimacy contributes to the stability of rule, or how legitimacy entails some form of alignment or valuable relationship between subjects and their states.

There is no consensus on what normative upshots a theory of legitimacy should have, and a survey of the literature presents a range of possibilities. I think it is possible to distinguish three broad groups of normative upshots which (contemporary) theorists have taken legitimacy to imply.[10] I call these Strong, Weak, and Moderate, respectively.

First, there are those who hold that legitimacy implies the state's moral right to enact and coercively enforce directives, and a correlative duty or obligation on the part of subjects to comply with these. Examples include Simmons who holds that state legitimacy involves the 'right to rule', which is a "logical correlate of the (defeasible) individual obligation to comply" (2001, p. 155). Further examples include Raz (1986) and Green (1988), who both defend the idea that legitimate authority of the kind that states claim necessarily involves the moral power to bind through commands, and hence implies obligations on the part of subjects to obey such authority. Some authors spell out the combination of the state's right to issue directives and subjects' obligation to comply in terms of Hohfeldian rights. For example, Wendt (2018, p. 11-13) spells out the normative upshots of legitimacy in terms a complex moral right which consists of a Hohfeldian *liberty-right* of the state to enact and coercively enforce laws, a *claim-right* on the part of the state to be obeyed, and a *power* of the state to impose duties

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the use of *all* kinds of violence, e.g. certain forms of violence which subjects routinely wage upon each other. Further, the state's monopoly over the use of violence tends to be accompanied by a normative claim to have the *right* to decide who gets to use violence against whom and under what circumstance.

[9] This can be true even of purely 'descriptive' accounts of legitimacy. Again, see Greene (2017b) for an argument about the moral value of a Weberian notion of legitimacy.

[10] I limit myself to contemporary authors because these are the primary antagonists of realists. These options are the most commonly cited in the contemporary literature but are not exhaustive of all possibilities.

on subjects (see also Quong 2010, p. 108 for a similar formulation).[11] Call this the Strong view of the normative upshots of legitimacy.

Second, there are those who object to the idea that legitimacy entails an obligation on the part of subjects to comply with the state's directives. Instead, they hold that the state is justified in issuing directives and backing these up by force or justified in using coercive power. Thus e.g. Ladenson (1972) argues that legitimacy implies merely that the state has a 'justification-right' (and not a 'claim-right') to issue directives and back these up by force. In other words, the state does nothing wrong when it issues directives and backs these up by force. Similarly, some authors simply understand the normative upshot of legitimacy as the 'justifiability of using coercive force' or as the 'permissibility of coercion'. Examples include Estlund, who understands legitimacy in terms of "the moral permissibility of a law's or regime's coercive political enforcement" (2017, p. 396). Authors in this camp tend not to say much about what this implies in terms of how subjects ought to relate to the state. The permissibility of the state's using coercive force (of a certain degree and under certain circumstances) may well be compatible with subjects' moral permissibility to resist such coercion.[12] This is the Weak view.

Finally, there are those who hold that legitimacy entails that the state rules permissibly, and that subjects have strong (moral) reasons to obey or support the state. This view is weaker than the first view outlined above, because it doesn't hold that legitimacy involves a claim-right on the part of the state and a correlative obligation on the part of the subjects to obey, but stronger than the second because it specifies that, although subjects do not have an *obligation* to obey the state, they nevertheless have *very strong reasons* to obey and may thus act wrongly if they do. Hence, I call it the Moderate view. This is the view taken by Buchanan, who positions himself in between the first and the second kind of account of the normative upshots I have identified above.[13] Buchanan holds that legitimacy implies that subjects have, on the whole, moral reason to support (as opposed to rebel against) the state (2018, p. 53).

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[11] Although some claim that the right to rule should be understood merely as a 'justification-right', corresponding with no duty on the part of subjects to be obeyed, and others that it should be understood merely as a power which entails a moral liability but not a moral duty to obey.

[12] The authors in this group tend to think either that the issue of authority can be separated from the issue of legitimacy or tend to hold a very different notion of authority from the authors in the first camp. Thus, they might hold that authority and legitimacy are orthogonal issues, and that a state's legitimacy says something about its use of coercive but needn't say anything about whether or not it has authority to issue binding commands on subjects. Or, they may hold that the state's authority doesn't involve the moral power to bind subjects through the issuing of directives (quite contrary to what might seem to be the case).

[13] Buchanan employs terminology similar to mine. He calls these the "strong Claim-Right view" and the "Weak view", respectively (2018, p. 76).

These normative upshots figure significantly in theorising about legitimacy – either as the starting point from which theorists develop their conceptions of legitimacy, or as success conditions of any purported theory of legitimacy. Theorists of legitimacy often proceed by way of specifying what the normative upshots of legitimacy must be (often based on the kind of role legitimacy plays in their wider political theories), and then go on to specify conditions which would yield the specified normative upshots.

Realists reject all three of the above options from the get-go. The realist's motivation appears to be the thought that it is wrong-headed, in some way, to try to find a theory of legitimacy which meets 'pre-political' normative standards relating to the moral justifiability of the state's actions and subjects' reasons or duty to obey. This does not imply that realists think that legitimacy is devoid of normative significance (including moral significance). The list of normative upshots listed do not exhaust the normative importance or value of legitimacy. It only implies that realists do not think that a theory of legitimacy, in order to succeed, must imply normative upshots of the specific kind listed above.

1.4 The plan

From this brief survey of how different authors have understood the normative implications of legitimacy, we see the difficulty of setting out the conditions of success for a realist theory of legitimacy before we begin the inquiry into realist legitimacy. Part of what is at stake in the debate between realists and moralists is precisely what the success conditions of a theory of legitimacy ought to be, including what normative upshots judgements of legitimacy have. Given this disagreement, I will not assume that any of these normative upshots is required for an adequate theory of legitimacy. Instead, I will examine what normative upshots realist accounts of legitimacy *do* deliver. I will also look more widely at the normative implications of realist legitimacy. In other words, I will be asking what normative difference realist legitimacy makes.

My overall argument is two-pronged. I explore, in Chapters 2 and 3, legitimacy-as-acceptance and legitimacy-as-acceptability, respectively. I investigate how these accounts work, and what normative implications they have. I argue that realist legitimacy, understood either in terms of the widespread acceptance or acceptability of rule, doesn't have the kinds of normative upshots we might expect from a theory of legitimacy. They give a partial answer, at best, to the question about the moral standing of states with regards to their subjects, and how subjects ought to relate to their states in turn. This, however, does not imply that realist legitimacy is normatively insignificant. Realist legitimacy has significant value, whether or not it delivers the specific kinds of normative upshots many have considered inextricably linked with the problem of legitimacy.

In Chapter 4, I change tack. Are there any good reasons for taking seriously an account of legitimacy which cannot deliver the kinds of normative upshots which political theorists have considered so important and so central to the question of legitimacy? In this chapter, I look closer at how Williams and Greene frame the question of legitimacy, and how they understand the success conditions of an adequate theory of legitimacy. Based on the way that they frame the question, I argue that realists and moralists are not merely talking past each other – they frame the problem of legitimacy largely in the same way.

However, realists like Williams and Greene tend to reject the idea that accounts of legitimacy should be judged on the basis of some 'pre-political' moral standard, such as those represented by the normative upshots listed above. In this final chapter, I investigate how we should interpret the claim to reject 'pre-political' moral standards and argue that realists are best understood as attempting to develop 'internalist' theories of legitimacy. There are good reasons, I argue, to develop such a theory, and if we understand realists in this way, we can understand why some moral critiques of realist theories of legitimacy appear misguided.

Chapter 2. Acceptance

Legitimacy-as-acceptance accounts ground the legitimacy of the state on the acceptance or approval of its subjects. These views hold that subjects' acceptance or approval is necessary (and possibly sufficient, under certain circumstances) for legitimacy. The aim of this chapter is three-fold. First, it offers an examination of the notion of acceptance which underpins legitimacy-as-acceptance accounts of legitimacy, and the way in which acceptance contributes to legitimacy. Second, it offers a critical discussion of Greene's (2019) account of legitimacy as "quality assent". Third, it offers an argument about the normative implications we can expect from a legitimacy-as-acceptance account of legitimacy, using Greene's account as an illustration.

I begin this chapter with an examination of the notion of acceptance. Realist acceptance theorists need a notion of acceptance which is less demanding than consent, and yet is strong enough to form the basis of a normative theory of legitimacy. Widespread acceptance, in some sense, is plausibly a necessary condition for legitimate rule, whatever else one thinks might be necessary for legitimate rule. But realists who place acceptance of rule at the centre of their theories of legitimacy don't hold acceptance to be just one of several necessary conditions of legitimacy. They hold that acceptance (of a certain kind, or under certain constraints) is *sufficient* for legitimacy. This suggests that their notion of acceptance cannot merely be understood as, for example, acquiescence out of fear.

I examine Greene's (2019) 'quality assent' view of legitimacy as one of the most detailed defences of a legitimacy-as-acceptance view to be advanced in recent realist literature. I offer a critical discussion of Greene's view, with a particular focus on the notion of quality assent, including the 'cognitive' and 'volitional' aspects of such assent.

Using Greene's theory as an illustration, I argue that widespread acceptance to rule, whether understood as 'quality assent' or in some other way, *could* be enough to ground the state's 'right to rule' and duties to obey or refrain from interference on the part of subjects; but, crucially, whether or not acceptance theories will imply this depends on the circumstances, and the type of acceptance involved. Widespread acceptance to rule, I argue, typically provides strong reasons for subjects to support their state and obey its directives, but these reasons may not apply to all subjects. I end with a consideration of the wider normative implications of widespread acceptance to rule, those which go above and beyond normative upshots more narrowly defined.

2.1 Acceptance – acquiescence, endorsement, agreement

'Acceptance' is a capacious concept, commonly used to mean a wide range of different things. Its meanings range from reluctant acquiescence to endorsement to intentional agreement. Accepting something sometimes means nothing but believing that thing to be true, such as when we accept someone else's testimony. Other times, acceptance first and foremost involves adopting a certain attitude towards something or performing a certain action, such as when someone accepts a referendum result and hence does not question it or fight against it. The attitude involved in accepting something can range from the positive (a 'pro-attitude' or endorsement), to the negative (toleration or reluctant capitulation). To say that a subject 'accepts' rule, without further specification, might mean that she surrenders to rule out of fear of reprisals, that she has a positive evaluation of or attitude towards rule, or that she has agreed to be ruled.

For our purposes, it will help to distinguish different kinds of acceptance primarily on the basis of three dimensions – the 'cognitive' and the 'volitional' and the 'affective'. By the 'cognitive' dimension of acceptance I mean the beliefs or reasons on the basis of which someone accepts something. Typically, acceptance is done on the basis of some judgement or on the basis of some reason(s). I might accept the rule of my state because I think that it governs in the correct way, say, democratically and according to the rule of law, or because I think that it delivers important goods to me and/or other subjects (healthcare, education, infrastructure, a sense of national community). Alternatively, I might accept the rule of my state because I have reason to think I'll be thrown into prison if I don't.

By the 'conative' or 'volitional' aspect of acceptance, I mean the aspect of acceptance which is related to the will, and is thus characterised by wants, intentions, dispositions and/or actions on the part of the subject. A range of mental volitional states and actions might be attributed to someone who accepts the state. Minimally, it would seem that accepting the state involves an intention or disposition to refrain from active rebellion against the state. The volitional aspect of acceptance may be much stronger than this, however. It might consist of a subjects' want to obey all of the state's directives, or her intention to actively support and defend the state in various ways, by standing for political office or by working for the state, for example.

We might further speak of an 'affective' dimension to acceptance, which relates to the emotions or feelings of the person who accepts. While acceptance is often associated with a positive or neutral stance, this need not be the case, as is shown by the example of reluctant acquiesce to an uncle's authoritarian ways, or the grudging toleration of the political views of one's boss. Whether compliance is grudging (because, for example, one instinctively resents authority) or enthusiastic (because one strongly

identifies with one's state) seems to make a difference to how strongly we are motivated to obey or support the state. Thus, the affective and the volitional dimensions of acceptance can help reinforce each other.

Not all instances of acceptance need encompass a specific cognitive, volitional and affective state. A belief in the justifiability of the state may be accompanied by no particular volitional state at all – one might not yet have made up one's mind about how such a belief should affect one's actions towards the state, for example. Similarly, one might be instinctively suspicious of the state for no particular reason, and yet obey the state's directives out of habit. Further, each of these dimensions could encompass a certain amount of complexity. The subject who acquiesces to rule out of fear of the state, and the subject who complies because she believes the state is just, may share a similar volitional state in one sense – they share an intention to comply with the state's directives – but not in another sense – the second subject's intention to comply may be willing or voluntary in a way the first subject's intention isn't.

To illustrate why it is useful to pull these dimensions apart, consider the case of a subject who believes that her state, overall, is justified, because it does more good than harm. She isn't particularly positive about her state (or any others, for that matter), since she considers states a necessary evil. Nevertheless, she thinks it would be wrong to try to dismantle the state, and accordingly, she doesn't actively rebel. She doesn't believe that there's any general moral obligation to obey the law, but most of the time, she obeys. Sometimes she obeys because she agrees with the law in question, other times she obeys only because she doesn't want to pay a fine or go to prison. In rare cases she breaks the law, when she considers it justified to do so and when she knows she can get away with it. Does such a subject accept her state? It clearly depends on what kind of acceptance we have in mind. If we think of acceptance as the lack of active rebellion, or merely as a belief in the overall justifiability of the state, this subject accepts her state. If we instead think of acceptance in stronger terms, as a belief in the legitimacy or moral authority of the state, as a general commitment, wish or intention to obey the law, or as a positive attitude towards the state, she doesn't accept her state.

I think it is fair to say that philosophers and political theorists who speak of acceptance have, in general, not been clear enough about what kind of acceptance they speak of. In pulling these dimensions of acceptance apart, I want to bring to light the many different notions of acceptance which may be in play when we speak of acceptance to rule. Which notion of acceptance is in play in realist acceptance theories? As this disambiguation should make apparent, the realist has a wide range of options to choose from. But one thing should be clear. The realist acceptance theorist who wishes to advance a distinctively realist theory of legitimacy, which nevertheless remains normative, must use a notion of acceptance which is normatively stronger

than mere submission or acquiescence, but nevertheless falls short of intentional agreement or consent. Acquiescence based merely on fear and terror of the state doesn't appear to contribute anything to a normative notion of legitimacy. Such acquiescence is characteristic of successful domination rather than legitimate rule. The notion of acceptance used by a legitimacy-as-acceptance theorist must, therefore, specify under what conditions acceptance counts towards legitimacy, or specify the kinds of reasons on which acceptance must be based in order to contribute towards legitimacy. At the same time, the notion of acceptance used must not be so strong as to amount to something like intentional agreement. Such acceptance, if it is both willing and intentional, effectively amounts to consent and would hence collapse the distinction between acceptance theories and consent theories of legitimacy. This is a problem because it would make legitimacy unattainable (at least for all currently existing states), and thus make all (currently existing) states illegitimate. This is a conclusion realists want to avoid.[14]

There is one further aspect of acceptance which deserves mentioning, and it is the content of acceptance. I have specified the object of legitimacy in terms of the *state's rule*. This object straightforwardly gives rise to the content of acceptance. The content of acceptance (the thing which subjects accept), must be the state's rule, in some overall sense. A subject's acceptance of certain policies or processes of the state are clearly not sufficient for that subject to have accepted the state's rule – it is possible to accept parts of a system while rejecting the whole. This suggests that acceptance of the state's rule requires subjects to have made some kind of *overall* assessment of the state's rule, or have some kind of *overall* tendency go along with the state's rule. We will see how, on Greene's theory, acceptance requires subjects to have made an 'overall subjective assessment' about the goods of rule.[15]

2.2 The necessity of acceptance

Widespread acquiescence to rule appears to be a necessary condition for legitimacy for the simple reason that, without such acquiescence, political order is threatened. A state in which a large number of subjects are in active rebellion against their state – such as Belarus, at the time of writing[16] – cannot count as legitimate because it hasn't

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[14] My characterisation of acceptance might suggest that the difference between acceptance accounts of legitimacy and consent accounts is one of degree rather than kind. In one sense this is right – on my understanding, there is a sliding scale of different notions of acceptance, and some kinds of acceptance are strong enough to qualify as consent. However, as noted in Chapter 1, consent theories tend to posit universal consent as a necessary condition on legitimacy, but this is something realists reject. This latter difference, I think, is strong enough to mark a difference in kind between realist acceptance theories and consent theories.

[15] I will return to this point in Chapter 3. It represents one of the potential differences between acceptance and acceptability theories.

[16] Although it may be more accurate to say that citizens of Belarus are rebelling not against the state of Belarus, but its current regime. The line between a state and a regime is blurry, however, especially

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managed to solve, or hasn't managed to uphold a solution to, what we might call the 'first political question' after Williams (2005, p. 3). The first political question is that of securing security, order, trust and the conditions of cooperation. It is 'first' in the sense that it is a precondition of solving any further political questions. A state in which a majority of subjects are engaged in active rebellion against it is not so much a state as a state in dissolution, and is hence ruled out of consideration as a legitimate state.

There is good reason to think that a stronger notion of acceptance – some form of willing acceptance, or acceptance on the basis of a belief in some good provided by rule – should also be a necessary condition for legitimacy, whatever else one thinks legitimacy requires. A state in which all subjects yield to rule unwillingly and grudgingly would likely be very unstable. In politics, 'the many are governed by the few', as Hume points out, despite the fact that in terms of brute force, the balance of power tends to lie on the side of the governed (Hume 1987, p. 32-33). While it may be possible for some states to rule by force and threats of force alone, for some period of time, there are typically limits to how many subjects a state can control at once by direct coercion or threats.[17] For example, imagine how much more difficult it would be for the British state to rule effectively – for example, enforcing a nationwide lockdown during a pandemic – if everywhere and at all times, people obeyed directives only when they wanted to or when it was in their interest to do so, and tried to flout directives or play the system whenever they saw a chance to do so. Raz puts the point in the following way: "without acceptance by the bulk of the population the effectiveness of government action is greatly reduced, and the undesirable effects of any government measure are multiplied, as people take action to evade its consequences that are unpleasing to them" (2018, p. 18).[18]

Acquiescence, then, appears absolutely necessary for legitimacy, and there are good reasons to think that a stronger kind of acceptance should also constitute a necessary condition for legitimacy. Widespread acceptance of rule will tend to increase the effectiveness of political rule and hence improve the quality of any further goods the political system delivers. Hence, whatever standard of legitimacy we might hold (that legitimacy requires just institutions, democratic elections, or the provision of some basic goods to all subjects), subjects' acceptance of rule will tend to increase the

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when a regime is as long-lasting and as intimately connected with all aspects of the state as Lukashenko's regime is.

[17] Some might argue, however, that technology is quickly changing this, and that modern states can now control millions of people directly through coercion or threats of coercion with the help of surveillance technology. See e.g. Zuboff (2019) for a discussion of how surveillance capitalism enables new forms of social control.

[18] Raz, in the cited article, is primarily concerned with the fact that beliefs about the legitimacy of democracy, and acceptance of democratic rule as a result of such a belief, help ensure that democracy provides stable and peaceful rule. If people did not, in general, accept democracy as a legitimate form of government, democratic elections would not be a reliable way of providing peaceful and stable rule. In this way, Raz argues, beliefs in legitimacy tend to 'self-verify'.

legitimacy of the system. It is in virtue of this that subjects' belief in the legitimacy of the political system tends to 'self-verify', as Raz puts it (2018, p. 18). Take the example of our strong belief in the legitimacy of democracy. One of the reasons why citizens of the UK tend to accept the UK as a legitimate state has to do with the fact that the UK is a democratic country. We tend to think, amongst other things, that democracy is a particularly good way of ensuring stable and peaceful rule, and in particular, of ensuring the peaceful transfer of power. But our very acceptance of democracy as legitimate helps ensure that democracy provides stable and peaceful rule. If people did not, in general, accept democracy as a legitimate form of government, democratic elections would *not* be a reliable way of providing peaceful and stable rule. This point, I think, has tended to be underestimated by theorists of legitimacy outside of a realist vein.

Realists who place acceptance of rule at the centre of their theories of legitimacy don't typically hold acceptance to be just one of several necessary conditions of legitimacy, however. Instead they hold that acceptance, of a certain kind, or under certain constraints, is sufficient for legitimacy. I will use Greene's (2019) account of legitimacy as "quality assent" to illustrate how one kind of theory of legitimacy-as-acceptance works.

2.3 Greene's account of legitimacy

On Greene's account, legitimacy is grounded in the "quality assent" of subjects to political rule. Assent to rule is present when a subject forms an 'overall subjective assessment' of the governance she is subject to and, on that basis, accepts her political order. Assent is a combination of a belief state (judgement) and a volitional state (acceptance). The volitional state must be based on the judgement that one's political order is valuable *as a political order*, and "involves a voluntary element of endorsement" (Greene 2019, p. 71). For the individual, it manifests in the attitude of willingly accepting one's subjection to political rule based on the recognition that such rule provides some good that the subject values.[19] Subjects may have different views about what goods a polity should deliver and what constitutes a valuable political order, and may therefore assent to rule on different grounds. When an individual assents to her political order, political rule is said to be voluntary for that subject.

The judgment which acceptance of rule is based on (the 'cognitive dimension' of acceptance, according to my terminology) has the following form: "I see value in being under this system of rule (while tacitly acknowledging this system as such)" (Greene 2019, p. 72). The form of this judgement is based on what Greene takes to be the

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[19] Greene has since changed the reference to 'goods of rule' to rule 'advancing or promoting ends which subjects consider worthwhile' (2017a, p. 34).

essential purpose of a political order: to "deliver benefits to subjects through the exercise of power and authority" (2019, p. 69). All systems of organised power which present themselves as political orders will claim to benefit subjects through the exercise of power. Greene calls this the "essential claim of rule" (2019, p. 72). The provision of basic security for subjects is a necessary condition for the provision of any further political goods. From this, Greene derives what she calls a "minimal claim of government", namely, the claim to protect the basic security of all subjects (2019, p. 72). The minimal claim of government is a logical presupposition of any essential claim of rule, because of the primacy of basic security for all subjects. A political order which does not make, or cannot be understood as making, this minimal claim, is not a political order at all.[20]

Greene characterises the volitional state involved in quality assent as a "willing acceptance of one's status as a subject" (2019, p. 69) or alternatively as the "acknowledgement of a regime as to-be-obeyed" (2019, p. 76). The volitional component of assent, then, appears to be something like a subject's willing intention to obey (most of) the state's directives, or, at the very least, her willing intention to not openly challenge the state's rule. This volitional component is mental rather than behavioural. Various behavioural indicators (such as obeying the law) can serve as decent proxies for assent but should not be mistaken for it. Greene places less importance on what I have called the 'affective' dimension of acceptance. She states that one might assent to rule, in her sense, even if one is "not… fully reconciled to it" (2019, p. 71). Quality assent, then, can be grudging or resentful but still contribute towards legitimacy.

Not all assent to rule counts towards legitimacy. Greene adds what she calls a "quality filter" to assent. The quality filter is based on the minimal claim to government. If the state's rule "obviously clashes" with the minimal claim to government, by failing to provide for the basic safety and security of some of its subjects, it cannot be legitimate even if subjects assent to its rule. Thus, assent given e.g. by a *dominator*, someone who doesn't think that every subject deserves basic safety and security, or an *underling*, someone who doesn't think he or she is worthy of basic safety and security, doesn't count towards a regime's legitimacy, because such assent is based on a judgement which explicitly denies the minimal claim to government (2019, p. 72).[21]

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[20] While it seems true that the provision of basic security for *most* subjects seems a presupposition for the state's ability to provide any further political goods to those subjects, we might doubt whether the provision of basic security for *all* subjects is necessary in the same way. Thus, while Greene argues that the 'minimal claim' of government – the provision of basic security for *all* subjects – is a logical presupposition of the essential claim of rule, this does not seem to be the case, unless the essential claim of rule is understood as the provision of some benefits to *all* subjects. This, I suggest, is how we must understand Greene.

[21] Greene specifies that, to qualify as a subject of a regime, some degree of mutual recognition between the subject and her state is required. That is, the state must claim to have authority over the subject,

Further, assent which is "robustly independent of available evidence" about the fulfilment of the minimal claim of government doesn't contribute toward legitimacy, for the same reason (2019, p. 72).[22]

Legitimacy on this view is a system-level, aggregative property. Every subject's quality assent contributes towards a state's legitimacy, but no individual subject's assent is necessary for legitimacy (Greene 2019, p. 85). This makes legitimacy a scalar rather than a binary property of political systems, although Greene argues that this doesn't rule out making binary legitimacy assessments. If we can, in some cases, say that someone is bald even though the considerations which we base this on are scalar, then we can say of specific states that they are legitimate or illegitimate in the same way. The scalar feature of Greene's account is noteworthy, since it leads Greene to conceive of legitimacy as a political good amongst others, rather than a source of side-constraints on state action.

2.4 Who has given quality assent?

Greene doesn't specify to what extent the judgements or the volitional component involved in quality assent should be conscious, explicit, or intentional in order to contribute towards legitimacy. We might wonder, further, whether it is possible to point to a specific instance where assent has been given (when the subject was in the given volitional state combined with a belief-state, or when she, consciously or sub-consciously, made a decision to accept the state's rule, on the basis of a judgement about the goods of rule) or whether assent is to be conceived of as a more continuous notion, like a 'pro-attitude' towards the state's rule.

These points are important for two reasons. First, any acceptance theorist faces a trade-off in specifying the notion of acceptance. A robust notion of acceptance may not encompass a majority of subjects in a country like the UK, which most realists would want to call legitimate. If one instead adopts a notion of acceptance on which it

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and the subject must in turn recognise the state as making such a claim on her obedience. This recognition clearly needn't amount to anything like acceptance of such a claim.

[22] This formulation suggests that Greene's quality filter is sensitive to *evidence* about whether or not the minimal claim is being met, rather than *facts* about whether this is so. Sensitivity to evidence rather than facts suggests that a regime could in fact be in breach of the minimal claim to government, while no evidence of this is available to a majority of subjects, and still be a legitimate state. However, Greene appears to have changed her mind on this. In a later article, she specifies that the quality filter is sensitive to facts about whether or not the minimum claim of government is being met (Greene, forthcoming). Even with this change, however, quality assent is not sensitive to any *other* facts about rule. This is because Greene thinks that there are cases in which acceptance based on false belief is nevertheless valuable (2019, p. 82). For example, although a child's reason for accepting her parents' authority might be based on false belief or manipulation (for example, the child may believe her parents are the most competent parents in the world), such acceptance could nevertheless be valuable in so far as it expresses a kind of identification with her parents and a respect for their authority (given such identification and respect are not wholly misplaced).

is clear beyond doubt that a majority of subjects have accepted, such acceptance cannot take the form of a conscious judgement about the benefits of the state overall, and an intentional decision to obey the state on the basis of such a judgement. It simply seems wrong to imply that a majority of subjects in the UK have consciously made such a judgement about the overall goods of their state and have, on the basis of this judgement, accepted their situation as political subjects. It is possible – and common, I would think – to go through life without reflecting too much on these matters. Whether or not we willingly accept our status as political subjects, we have to yield to the state's rule or face sanctions of various kinds. This is not to suggest that people in general don't have views about politics or beliefs about how a state should be run. It seems right to think that most people have some idea about how states ought to govern. The problem is that such opinions and beliefs do not equate to acceptance in the sense that Greene uses the notion. When we say that a majority of people in the UK have accepted the state's rule, it seems we are making an inference based on the fact that most people quite willingly comply, and in some very general terms think the UK as a state governs in the way that states should (e.g. democratically, and according to the rule of law). But the kind of acceptance which a majority of subjects have actually given seems less valuable (both for subjects and for rulers) than Greene's account of the value of "quality assent" suggests.

There is, in Greene, a temptation to equivocate between different kinds of acceptance in order to have it both ways. It seems that Greene, because she is explicit about her standard of legitimacy being attainable, means to imply that a state like the UK is legitimate, on her account. If it is true, as I have suggested, that most subjects in the UK haven't consciously or intentionally given an overall assessment of rule and willingly accepted rule on the basis of such a judgement, this would seem to imply that Greene doesn't think quality assent needs to be conscious or intentional to qualify as quality assent. However, when Greene discusses the value of quality assent, she appears to refer to a more robust sense of quality assent. She speaks of the "willing deference" of subjects "authentically affirming" rule and sharing the values by which they are ruled (2019, p. 81 and 78, respectively). I say this not because it presents a decisive problem for Greene's view – there are, presumably, some subjects who accept the UK state in a more conscious and deliberate way, for whom we may speak of the value of being able to 'authentically affirm' the state. Instead, I say this because Greene's theory illustrates a trade-off which all acceptance theorists face. The higher the conditions we place on acceptance – for example, requiring that acceptance is conscious, explicit and/or intentional – the fewer the people who have given such acceptance to rule will be. On the one hand, such acceptance is likely to be more normatively significant. But on the other, the lower the conditions on acceptance, the more people will have given such acceptance, but the less impressive the normative implications of such acceptance will be.

Second, it may seem that if we allow unconscious, unthinking or unintentional acceptance to rule, but nevertheless maintain that such acceptance is voluntary, as Greene says quality assent is, it is no longer clear in what sense it is voluntary. I started the chapter by noting that 'acceptance' is a capacious concept. That shouldn't be taken to mean that acceptance can mean just about anything. If it is true that most subjects in the UK have accepted or assented to rule in some substantive sense, we might think they should be conscious of this fact, and be able to give some reasons for their acceptance. We may, of course, *attribute* acceptance to subjects, even if they haven't consciously made an overall judgement about rule, or willingly accepted their status as political subjects, based on some of their beliefs and attitudes. We may do this if we are fairly confident that they *would accept* the state's rule if, for example, they had to reflect on the matter. But if this is what we mean when we speak of subjects' acceptance to rule, it seems more accurate to say that we are talking about the state's *acceptability* to subjects, rather than their acceptance of it. I will take up this point again in Chapter 3, since it is a point which suggests that what we're interested in is not just subjects' actual acceptance of rule, but also whether or not rule can be justified in terms of subjects' beliefs about rule, independently of the specific volitional state we think accompanies an act of acceptance.

2.5 Normative upshots 1

Greene doesn't say much about the normative upshots of her account of legitimacy, but notes that, on her account, legitimacy does not necessarily entail anything about rights, duties, or obligations. Whether or not a state is legitimate doesn't settle the question of whether its subjects ought to obey the law, or whether or not outside powers have a duty not to interfere in that state's affairs. However, it "normally contributes something to the reasons we have" to obey the law, and to others' reasons not interfere in that state's affairs (2019, p. 92).

Greene's characterisation of the normative upshots of a legitimacy-as-acceptance account are minimal. It naturally gives rise to a couple of questions. First, if widespread acceptance "normally contributes something" to the reasons we have to obey the law, can we say anything more specific about what kinds of reasons these are? Second, is there something about an acceptance view of legitimacy which means that it *cannot* give answers to questions about rights and obligations? Third, if the normative implications of legitimacy-as-acceptance cannot be easily be specified in terms of rights, duties or obligations, then what do they consist of? I answer these three questions in turn – the first in this section, the second in section 2.6, and the third in section 2.7.

Greene's characterisation of the normative upshots of a legitimacy-as-acceptance view – that legitimacy "normally contributes" something to our reasons for obeying the

state's directives – seems correct. Here, I will try to specify the kinds of reasons which legitimacy-as-acceptance normally contributes to our reasons for supporting the state.

Mere widespread acquiescence normally gives all subjects strong moral and prudential reasons to comply with the state's directives, or, at the very least, to refrain from destabilising it. The moral reasons stem from the fact that the alternative to stable political rule, no matter how bad such rule is, might be warfare or violent unrest. Political order, as realists are quick to point out time and time again, is a precious, difficult-to-achieve, political good. The prudential reasons stem from the fact that trying to rebel against a state which is widely accepted will likely be met with strong resistance. The achievement of widespread acceptance, thus, will tend to provide subjects with very strong reasons to support the state in some way and to comply with its directives.

A stronger notion of acceptance (willing acceptance, or the quality assent of Greene's account) contributes further reasons for subjects to support the state, which go above and beyond the reasons grounded in widespread acquiescence. It seems true that, as Greene argues, every single person has an interest in being ruled in a way which she in some sense willingly accepts. This implies that every single person who accepts her state has a reason to support her state. There is something particularly valuable about a state which achieves widespread acceptance, which goes above and beyond the value of political stability and order. Such a state is considered valuable by those who accept it. The fact that a great majority of people accept their state, then, doesn't just provide those who accept with a further reason to support it, but also provides those don't accept the state, as well as outsiders, a reason to refrain from trying to dismantle or obstruct the functioning of the state, since it is valuable to so many others.

This does not mean, however, that the reasons which stem from such considerations are always very strong. The strength of the reasons provided will plausibly depend on the kind of acceptance in question. Do subjects actively support the state, obey its laws, and consider it the rightful and ultimate arbiter of power, or do subjects go along with the state's directives unwillingly, unthinkingly, or simply based on habit? For example, if subjects' acceptance of rule is partly grudging or unwilling, this would suggest that subjects themselves don't consider it to be well-aligned with their beliefs. Widespread acceptance of this kind gives less strong reasons for supporting the state than other kinds of acceptance which imply that subjects consider the state to be very well-aligned with their beliefs. Neither does widespread acceptance necessarily provide strong reasons to support the state to each and every individual subject. An individual who belongs to an ethnic minority which is severely disadvantaged may lack strong reasons to support an otherwise widely accepted state – the state may be failing to provide for her interests in ways which mean that she thinks she is barely any better

off in this state than she would be if she tried to rebel.[23] The severe disadvantage of some ethnic minority of course doesn't just affect the reasons for supporting the state for members of the disadvantaged group. The severe disadvantage of some ethnic minority, if it is sustained by the state's discriminatory or oppressive practices, provides *everyone* with a moral reason against supporting such a state (although these reasons might fall short of providing a justification for trying to actively dismantle the state, if the state overall is valuable in other ways).

2.6 Normative upshots 2

I do not think there is anything about legitimacy-as-acceptance views of legitimacy which mean that they will *necessarily* fall short of the kinds of normative upshots I discussed in the first chapter. However, whether they do fall short of these normative upshots will depend on a number of further factors.

Wendt (2016) has argued that realist theories of legitimacy based on acceptance cannot solve what he terms "the puzzle of legitimacy" – namely, that of explaining how the state can come to acquire the 'right to rule' and subjects a duty to obey. Wendt's argument relies on drawing out the differences between acceptance, as used by realists, and consent. Acceptance, Wendt argues, doesn't share certain important features of consent – notably, those features of consent which make consent into the kind of normative instrument that can change the structure of rights and obligations. Wendt's argument explicitly relies on assumptions borrowed from Locke. Broadly, the assumptions are this: all human beings are (originally, fundamentally or naturally) equal in their possession of rights. Any deviation from this natural equality cries out for justification. The state's right to rule constitutes a deviation from this natural equality of rights since, even though the state isn't a person, the state's functions are necessarily carried out by people who, in virtue of occupying certain positions within the state, effectively possess a right to rule over others. The Lockean then asks, how is it that some people could come to acquire such a right? The only adequate answer, the Lockean concludes, is consent. Only by consenting to rule can individuals transfer (some of) their rights to others. Such a transfer of rights is compatible with the fundamental equality of people since the transfer is voluntary and intentional.

We should grant Wendt the idea that an individual's acceptance of rule – in the sense of acceptance used by realists – does not change the rights and obligations of that individual vis à vis the state.[24] This is for two reasons. First, as I have already noted,

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[23] Although we should note that, if the state fails to protect this group's 'basic security', this state would not qualify as legitimate on Greene's account.

[24] Wendt himself argues that "acceptance is a mental state, not a performance or public act. And as such it cannot give rise to new duties or rights" (2016, p. 238). This argument seems too quick, however, since it is not clear to me why mental states cannot give rise to new duties or rights. Further, my understanding of acceptance is broader than Wendt's, and could encompass certain behaviours as

the realist's notion of acceptance necessarily falls short of consent. While there may be instances or acts of acceptance which do give rise to new rights and obligations, it seems clear that the notion of acceptance used by realists generally falls short of this. Most theorists of consent include multiple conditions on valid consent – conditions which, if not met, mean that consent doesn't have its purported normative consequences. Commonly cited conditions which consent must meet in order to be valid include intentionality, competence, voluntariness, and sufficient knowledge on the part of the consentor, and further, that the content of consent is morally acceptable.[25] Acceptance to rule which satisfies all but one of these criteria – for example, acceptance which is competent, voluntary, done with sufficient knowledge and whose content is morally acceptable, but which lacks an intention to undertake political obligation would, according to the standards for valid consent, fail to change the subject's political obligations. I see no reason why the conditions for valid acceptance to political rule (conditions which, if met, would yield a change in the rights and obligations of the accepting subject) should be any different than the conditions for valid consent to rule. On the basis of this, it seems clear that the acceptance which realists speak of cannot have the kinds of normative consequences which valid consent does.

Second, while many have argued that consent is a necessary (and possibly sufficient) condition of legitimate rule, there is good reason to challenge this claim. Both Raz (1986, p. 80-94; 2006, p. 1037-1041) and Pettit (2012, Chapter 3) have argued (forcefully and successfully, I think) that consent to political rule cannot do the job that consent theorists want it to do. They note that proposing consent as a solution to the problem of political legitimacy tends to be motivated by the desire to preserve personal freedom or autonomy. Consent is presented as a moral instrument which allows us to commit ourselves to other people and projects in a way which is consistent with our freedom and autonomy. The problem, as Raz and Pettit point out, is that consent to political rule doesn't appear to do much to increase subjects' freedom or autonomy in ways that matter. This is partly because the content of consent to political rule is particularly open-ended and long-term. Subjects' consent to political rule is perfectly compatible with a lack of meaningful control that subjects have over such rule. The best that can be said for binding consent to political rule, according to Raz, is that it would make each of us "slaves of our own decisions when young" (Raz 2006, p. 1041).[26]

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well. In any case, Wendt's conclusion – that the acceptance posited by realists does not change the accepting subject's rights and obligations vis à vis rule, seems right, for the reasons I outline.

[25] See e.g. Simmons (2010, p. 317-319). This is not to deny that some acts of consent which are unintentional on the part of the consentor can nevertheless successfully communicate consent-based permissions (see e.g. Jorgensen Bolinger 2019).

[26] It might be thought that consent could be made less problematically long-term if consent to political rule were made time-limited or were renewed at regular intervals. Still, this would not help the other

Acceptance, in the sense used by realists, falls short of intentional agreement to undertake obligations or transfer rights. Because of this, acceptance will fare *even worse* than consent as a tool for preserving people's personal autonomy or freedom with respect to the state (that is, if acceptance is thought of as morally binding). This gives us another reason to support Wendt's idea that an individual's acceptance of rule shouldn't produce an obligation for her to obey the state's rule. To be clear, this does not suggest that widespread acceptance to rule has nothing to do with subjects' freedom or autonomy. I agree with Greene that there's some sense in which widely accepted rule is 'voluntary', in a way which widely opposed rule isn't. My argument concerns a more narrow point: there is no reason to think that acceptance to rule should bind the accepting subject to such rule, because thinking of acceptance in this way does not appear well justified from the point of view of promoting subjects' freedom or personal autonomy.

In short, Wendt seems entirely right to say that an individual's acceptance of rule does not change the state's rights or that individual's obligations. We lack good reason to think it should, and I have provided two reasons to suggest that it shouldn't. This does not mean, however, that widespread acceptance could not ground the state's rights and subjects' political obligations in a *different* way. If legitimacy-as-acceptance can provide reasons strong enough to support the state's right to rule and subjects' obligations to comply (and I see no reason why it shouldn't, under certain conditions), it will do so, I suggest, in an *aggregative* manner rather than an *individualist* manner. What I mean by this is that it will be the acceptance of a great majority of subjects which *together* grounds the normative upshots in question, rather than each subject's' acceptance which changes the normative landscape for her vis à vis the state. Again, let me explain.

First, I see no reason to think that the state's 'right to rule' is a violation of the 'natural' or 'original' equal rights of human beings, as e.g. Wendt argues it is. It has seemed obvious to many that the state is the only kind of institution which could uphold rights in any meaningful sense, including the 'natural' rights of man which the Lockean speaks of. Thus, the state's 'right to rule' is not a threat to the natural equal rights of humanity, but rather, a necessary presupposition of the effective protection and enforcement of such rights.[27] Thus, there is no 'inequality of rights' involved in the

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problematic features of consent to political rule which Raz identifies, namely, the fact that the content of such consent is so wide-reaching, covering almost all aspects of life, and unpredictable.

[27] Kant is most well-known for making this argument in *The Metaphysics of Morals* (1996). See Ripstein (2004) for a Kantian argument along the same lines. According to Ripstein, Kant sees two main problems with rights which are not backed up by a state. First, there is a problem of *determinacy* of the application of general principles to particular facts. Without a state to enforce rights consistently, people would apply the principles which underlie these rights inconsistently, and hence not be subject to equal rights. Second, there is a problem of *assurance*. If my ability to ensure that others respect my rights

state's right to rule, which has to be explained in terms of the transfer of rights from individuals who originally have equal rights. There are ways of justifiably assigning rights other than by consent-based transfer, and there are all kinds of reasons why the state should have such rights which haven't got anything to do with consent. The particular story about the state's right to rule as told by Lockeans – that it has been transferred to the state by each and every individual subject to its rule – seems like a particularly implausible account of how the state might come to acquire such a right.

We might look to Raz for a good way of countering the idea that the state could only come to acquire a right to rule through the transfer of rights by consent. I will use the briefest possible sketch of Raz' theory of rights to illustrate the possibility of a way of grounding the state's right to rule, and subjects' duty to comply, in the interests of subjects. On an 'interest' theory of rights, like the one favoured by Raz, the function of rights is to further the right-holder's interests. In other words, the 'ownership' or 'possession' of a right serves to make the owner better off. On Raz' specific account, individuals' interests are grounds for rights, and rights, in turn, are grounds for duties. A right exists when an interest of the right-holder, or an aspect of her well-being, is sufficiently important to hold others to be under a duty. In Raz' own formulation, "X has a right if X can have rights, and, other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty" (Raz 1986, p. 166). This account of rights applies both to persons and institutions. When it applies to institutions, the interests of the institution may be understood in terms of the well-being of its subjects.[28] Thus, if subjects have a strong enough interest in belonging to and being ruled by a state, where this provides sufficient reason for holding (some) subjects of the state to have a duty not to interfere with the state's operations, the state has such a right.[29]

On this account of rights, widespread acceptance to a certain state could plausibly provide a sufficient reason for holding (some) subjects under a duty to obey or support the state, and to assign the state a right to rule grounded in these duties.[30] Widespread acceptance to any one particular state's rule is a significant and valuable political

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depends on incidental features of my strength, the universality and equality of those rights are not guaranteed.

[28] The question of how individuals' interests are to be aggregated so as to produce a unified account of the 'state's interest' is complicated, of course.

[29] Of course, Raz would likely object to this argument if phrased in universalist terms, since he thinks of legitimate authority and the ensuing obligations in individualist terms. Perhaps it isn't plausible that each and every subject should have some kind of duty to the state, based on the fact that it is in most people's interest that the state should have a right to rule. Equally, even if it is, to some extent, in each and every subject's interest that the state should have a right to rule (each and every subject might, for example, have an interest in personal security which the state successfully protects), perhaps such interest is only sufficient reason to hold some and not others under a duty to obey the law or support the state in other ways.

[30] Although it seems most plausible that such sufficient reason would obtain only if the state also meets some minimal moral standards, such as the satisfaction of Greene's 'minimal claim of government'.

achievement, and, in most cases, is absolutely necessary for stable political rule. If the likely alternative to a particular state which is widely accepted is violent unrest or domination by another power, then the interests of subjects in peaceful political rule may be sufficient to hold them under a duty to support their state in some ways, and to assign their state a right to issue directives and to coercively enforce these. Moreover, widespread acceptance of rule signals that there is something valuable about such rule to subjects which provides further reasons to support the state and to comply with the state's directives (I will explore in greater detail what this value consists of in the next section). But note that the grounds for such a right (where and if it exists), is different from what it is on a consent theory of legitimacy. It is not the individual's acceptance of rule which grounds the state's right to rule over her, but rather the widespread acceptance of rule which grounds the state's right to rule over (a certain group of) subjects, and which gives those subjects a duty to comply.

I have argued that an individual's acceptance of the state isn't enough to ground a political obligation for that individual, but that legitimacy-as-acceptance could ground rights and obligations in a different way, if acceptance is widespread enough. Where there isn't sufficient reason, based on subjects' interests, to ground the state's right to rule and subjects' duty to comply, subjects' interests may still provide good justification for (some of) the state's coercive enforcement. Widespread acceptance *could* provide reasons strong enough to ground the state's right to rule, and a duty on subjects' to obey, on a certain theory of rights, although the way in which such widespread acceptance grounds rights and obligations would be very different to the way in which consent grounds rights and obligations on consent theories of legitimacy. Similarly, widespread acceptance *could* provide reasons strong enough to ground the state's permissibility of using coercive force, and strong moral reasons for subjects to support the state. In other words, legitimacy-as-acceptance, in some circumstances, or given certain conditions, could provide Strong, Moderate or Weak normative upshots of the kind outlined in Chapter 1.

But of course, it all depends, and it depends on a number of factors. There is no guarantee that widespread acceptance will yield these normative upshots, if the state in question is particularly incompetent and there are good reasons to think there are better alternatives to the state's rule. Other conditions would have to hold in order for any of these normative upshots to hold. Let me try to be slightly more specific. Some of the factors which seem to influence whether or not we have sufficient interest-based reason to hold that a state has the right to rule, and subjects a duty to comply, include the following. What kind of rule does the current state engage in (is it beneficial to subjects? does it protect their interests?). What are the realistic political alternatives to the current state (anarchy? domination by a foreign power? the creation of a new sovereign state?). What kind of acceptance is at play (is it enthusiastic and informed,

or lukewarm and based on a great deal of misinformation or illusion?). Who has accepted (a great majority of people? certain racial, religious or ethnic groups only?).

These considerations all affect the strength of the reasons given by subjects' interests or well-being, and hence whether or not there are sufficient reasons to ground a right or a duty in this case. If a state is very good at promoting its subjects interests by increasing their well-being, for example, this provides strong reason to assign such a state a right to rule. If there are other, better alternatives to the state's rule, which would better protect the interests of its subjects, we lack strong interest-based reasons to assign that state a right to rule.

Why make the effort to go through an argument to defend the possibility that legitimacy-as-acceptance could ground certain normative upshots, if, as I've put it, *it all depends*? Because, I think, it always depends, and it is unrealistic to think that it doesn't. More specifically, I think that whether or not we have an obligation or a reason to support our state, and whether or not states rule permissibly, depends on partly on what the alternatives to such rules are. Many other theorists of legitimacy acknowledge this as well, although it tends to be noted only in passing. For example, Leslie Green writes that a necessary condition of the state's legitimate authority (and hence, subjects' obligation to obey) is that the state's rule be, 'all things considered' morally justified (1988, p. 5). We do not need to accept that legitimacy must be in this way dependent on the 'all things considered' moral justifiability of the state to take the deeper point – that *if* we think of certain normative upshots as integral to our account of legitimacy, whether or not legitimacy delivers these will depend on the overall justifiability of the state's rule. This, in turn, plausibly depends on what the alternatives to such rule are (and perhaps on how likely it is that such alternatives could be brought about). Buchanan (2018) is slightly more explicit than other theorists of legitimacy on this point. Buchanan proposes an account of 'institutional legitimacy', which posits five criteria which are "generally speaking" necessary and sufficient for legitimacy. Buchanan acknowledges, however, that whether or not any one of the five criteria of legitimacy is strictly necessary for legitimacy will depend on the circumstances. In particular, he notes, it will depend on "how bad the noninstitutional alternative is" (2018, p. 60).

If this is right, two things follow. First, widespread acceptance to rule provides stronger grounds than it might at first seem for the kinds of normative upshots we are interested in. This is partly because, if it is true that widespread acceptance to rule is a precious and very difficult to achieve political good, then once it has been achieved, we have very good reason to hold on to it and support whatever institutions have managed to achieve it. Second, the idea that legitimacy-as-acceptance can only deliver normative upshots *given certain further conditions* should not be surprising and should not count

against these theories. It would be surprising if the normative upshots of a theory of legitimacy *didn't* depend on the alternatives to political rule.

2.7 What difference does acceptance make?

If acceptance theories do not *necessarily* yield normative upshots of the kind typically expected of theories of legitimacy, we might ask what normative difference legitimacy-as-acceptance does make. Greene provides a useful starting point for this. She characterises the primary normative importance of widespread acceptance not in terms of what I call normative upshots – conditions which specify the moral justifiability of the state's actions vis à vis subjects, and how subjects ought to treat the state – but in terms of a different set of interrelated values.

First, Greene argues, assent to rule promotes the non-alienation of subjects. A rebel or revolutionary who actively opposes the state's rule is alienated from her political community because she cannot authentically affirm the regime to which she is subject. This, Greene argues, is a pro-tanto bad state of affairs, as well as being bad for the rebel (2019, p. 78). Second, Greene argues that assent to rule contributes quantitatively and qualitatively to stability, since it both delivers stability on a more reliable basis and makes a qualitative difference to political stability by ensuring that subjects can be ruled in a gentler, softer manner which relies to a greater extent on shared norms and to a lesser extent on direct force and threats (2019, p. 79-80). Finally, states which acquire assent from its subjects enjoy a form of "political alignment" between state and subjects (2019, p. 80). Such alignment is characterised by shared values between those who rule and those who are ruled, implying that there is some agreement between subjects and the state with regards to the state's aims and how it goes about achieving them.

Greene argues that these interrelated values are dependent upon the value of the state, but at the same time not wholly derivative or instrumental (2019, p. 78). They are *non-instrumental*, because they cannot be reduced to the value that political institutions deliver, and *dependent*, since they depend on the value of the political order being assented to. This implies that there is no value in assenting to a tyrannical state, but great value in assenting to a just state. This seems correct. The value of being politically aligned with something seems to depend on the value of that thing – political alignment around a morally unworthy thing does not seem valuable at all.

All of these three values, I think, show why achieving widespread acceptance to rule is so important, even if it doesn't necessarily yield the normative consequences hoped for by some. However, as already noted, the value of widespread acceptance seems to depend on the form that such acceptance takes. Further, as Greene notes, the value of acceptance is dependent on the value of the state being accepted to. This

should make it even clearer why realist accounts struggle to yield the kinds of normative upshots we have been discussing. The kinds of normative upshots a legitimacy-as-acceptance account can yield will depend on the kinds of reasons and the strength of these that widespread acceptance brings. Some of these reasons derive from the moral value of acceptance. But these reasons will depend on their strength both on the kind of acceptance in play, and on the value of the political order being accepted.

2.8 Conclusion

In this chapter, I have introduced legitimacy-as-acceptance theories of legitimacy. I began by disambiguating different senses of 'acceptance to rule', and argued that realists hoping to put forward a normative notion of legitimacy must use a notion of acceptance which lies somewhere in between acquiescence and intentional agreement (2.1). I continued by arguing that acceptance to rule, in some sense, is plausibly a necessary condition for *any* theory of legitimacy (2.2). I continued with an exegesis of Greene's account of legitimacy as quality assent (2.3), using this to illustrate some of the trade-offs realist acceptance theories necessarily face (2.4). I proceeded to investigate the normative upshots of legitimacy-as-acceptance. First, I examined the kinds of reasons that widespread acceptance might contribute to our reasons for supporting the state (2.5). Second, I argued that there is no reason why widespread acceptance couldn't, under certain circumstances or given certain conditions, give us reasons strong enough to ground the state's right to issue directives and subjects' duty to comply. However, there is no guarantee that legitimacy-as-acceptance has these normative upshots: it all depends on the circumstances at hand (2.6). Finally, I noted that the normative importance of legitimacy is not exhausted by a consideration of the kinds of normative upshots it delivers. I ended by considering the broader value of widespread acceptance (2.7).

Chapter 3. Acceptability

I define legitimacy-as-acceptability as accounts which ground legitimacy on the possibility of justifying the state's rule in terms of subjects' beliefs and attitudes towards rule. When it is possible to construct such a justification, the state's rule is 'acceptable' to those subject to it.

The aim of this chapter is three-fold. First, I explain what I take to be the main difference between acceptance and acceptability theories and why one might posit acceptability rather than acceptance as the grounds of legitimacy. Second, I offer a critical discussion of Williams' theory of legitimacy, arguing for a particular interpretation of his theory. Third, I investigate the normative upshots and wider normative implications of legitimacy-as-acceptability.

I begin with an examination of the difference between legitimacy-as-acceptance and legitimacy-as-acceptability theories, as I understand them. The acceptability theorist, I argue, places less importance on whether or not subjects have actually made certain overall judgements about the state's rule, or are in the kind of volitional state which might be posited as the grounds of legitimacy by the acceptance theorist. I note further important aspects of any realist theory of acceptability – first, that it must use a notion of acceptability which retains a close link to what subjects are likely to accept, and second, that the acceptability theorist appears to require a degree of interpretation in order to make judgements about what subjects are likely to accept, in this way.

I proceed to an exegesis of Williams' view of legitimacy, the most prominent example of a legitimacy-as-acceptability view of legitimacy in the recent realist literature.[31] Williams grounds the legitimacy of states in the justification of the state's rule to each subject, where such a justification must be 'acceptable' to those subjects. I argue that we should interpret Williams' view of legitimacy as one which holds 'justifiability to all' as a necessary condition of legitimacy, but not the stronger notion of 'acceptability to all'. Any realist acceptability theory, I argue, will struggle to hold 'acceptability to all' as a necessary condition for legitimacy, because of the notion of acceptability they use.

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[31] Other accounts which fit into this category, as I have defined it, include Horton's (2012, 2018) and Sleat's (2014) accounts of legitimacy. Beetham's (2013) account also stresses the justifiability of rule in terms of subjects' beliefs and hence appears to fit well into this category – but his account is multifaceted and includes, over and above this kind of 'acceptability', conditions on legality and evidence of consent. Horton's account seems inspired both by Williams' (2005) and by Beetham's (1991) interpretation of Weber's account of legitimacy, while Sleat's account draws primarily on Williams' (2005) account.

I end with a consideration of the normative upshots of an acceptability theory of legitimacy. I argue that the acceptability theorist will face broadly the same constraints in terms of normative upshots as the acceptance theorist.

3.1 Acceptance vs. acceptability

On my definition, a realist account of legitimacy is one which grounds legitimacy, to a large extent, in the actual beliefs and attitudes of those subject to rule. A potential worry for the realist who posits an acceptability theory is that the notion of 'acceptability' points away from actual acceptance, towards hypothetical acceptance, in a way which might seem inimical to the spirit of realism. The notion of 'acceptability' which the realist uses must, if it is to stay distinctly realist according to my definition, retain a close link to what actual subjects are likely to accept, based on their actual attitudes and beliefs about rule. 'Acceptable' cannot simply mean 'that which is rational/reasonable to accept', independently of what subjects actually think and believe. For example, the idea of divine right would have been considered a reason for many to accept the rule of an absolute monarch in 17th century France. We might thus judge that rule by an absolute monarch was an 'acceptable' answer to the first political question in 17th century France, even though we are now unlikely to claim that it was rational, reasonable or good to accept absolute monarchy on the basis of such a belief.

Why would a realist posit acceptability rather than acceptance as the grounds for legitimacy? In the last chapter, I discussed acceptance as a condition of legitimacy. I noted, in the discussion of Greene's account of legitimacy as quality assent, that what might seem more important than whether people have actually accepted rule in the way that Greene describes – i.e. formed an 'overall subjective assessment' of rule, and willingly accepted their status as subjects on the basis of this – is that people would accept, or are likely to accept, if they were to think about the state and its rule in some overall way. 'Acceptability' in this sense doesn't require subjects to actually have made an overall judgement about the state's rule, or to have thought much about the issue at all. What matters, rather, is whether there is some congruence or alignment between their ideas about how they should be ruled, and how they are actually ruled. A state which is 'acceptable' to a subject in the realist sense is a state whose rule can be justified in terms of subjects' beliefs and attitudes and which is, because of this, likely to be accepted by the subject if they were to consider the issue directly.[32]

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[32] Acceptability may be sensitive either to facts about rule or evidence about rule. On Beetham's (2013) account, acceptability appears sensitive to facts about rule; whereas Williams' (2005) notion of acceptability appears sensitive only to evidence about rule.

Beetham's (2013) account of legitimacy provides an explanation of the difference between 'acceptance' and 'acceptability' views of legitimacy (although Beetham doesn't use these terms). Beetham turns against what he calls the 'received' interpretation of Weber's account of legitimacy.[33] This interpretation holds that, according to Weber, a state is legitimate to the extent that subjects accept it, on the basis of a belief in its legitimacy; "legitimitätsglaube", or belief in legitimacy, is what grounds the legitimacy of the state. This 'received' interpretation would qualify as a legitimacy-as-acceptance view, on my terminology.

There are several problems with this view, according to Beetham. First, as many have pointed out, this definition of legitimacy is circular, since it defines legitimacy in terms of a belief in legitimacy. It renders wholly unclear what the content of subjects' belief in legitimacy is. This first objection can be circumvented, however, if we tweak the definition of the beliefs which ground legitimacy. Perhaps it is people's belief that the state is, in some overall sense, justifiable, or their 'overall subjective assessment of governance' based on some perceived benefits of such rule, as on Greene's view, which grounds legitimacy. This does not, then, seem to present an insurmountable obstacle to legitimacy-as-acceptance views in general.

More importantly, Beetham argues the 'received' interpretation of Weber (and, by extension, an acceptance view of legitimacy, like Greene's) misconstrues the relationship between subjects' beliefs and legitimacy. As Beetham puts it, "a power relationship is not legitimate because people believe in its legitimacy, but because it can be justified in terms of their belief." (2013, p. 11). Subjects may not have any beliefs about legitimacy per se, or about the overall justifiability or moral right to rule of their states. But they may well believe that states should rule democratically and in accordance with the rules set out in the constitution, and we might think that this is enough, on its own, to ground the legitimacy of a state which rules democratically and in accordance with the constitution.

Beetham's critique translates at least partially to acceptance views of legitimacy. Although acceptance views do not need to posit a 'belief in legitimacy' as the grounds of acceptance in the way that the 'received' interpretation of Weber does, they must posit some form of belief or judgement of the overall benefits or the overall justifiability of rule. As we have seen, Greene's account states that legitimacy is grounded in subjects' acceptance of rule on the basis of an 'overall subjective assessment of governance'. But what if subjects haven't made such overall assessments of governance, and hence cannot be said to have accepted rule on the basis of such an assessment? It seems plausible to think that many subjects have some beliefs about

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[33] It should be noted that this interpretation of Weber has been challenged (e.g. by Greene 2017b). Beetham himself notes that this may not be the best way to understand Weber. What is clear, however, is that this is how many social scientists have interpreted Weber, fairly or not.

how political power should be wielded (i.e. democratically, in accordance with the rule of law, in ways which benefit subjects, etc.) even though they may not have formed an overall assessment of rule on the basis of this.

The main difference, then, between acceptance theorists and acceptability theorists, as I understand them, is that the acceptability theorist may doubt whether subjects are actually in the cognitive and/or volitional states that the acceptance theorist posits as the grounds of legitimacy. The acceptability theorist may *impute* certain overall judgements or volitional states to subjects, based on subjects' beliefs about who should have power and how it should be wielded, but places less importance on whether subjects actually make such judgements.

It is the fact that acceptability theorists impute overall judgements or volitional states to subjects which appears to make some kind of interpretative exercise an integral part of their enterprise. Because of the focus on the idea of acceptability rather than acceptance, acceptability theorists rely on some form of interpretation to make judgements about legitimacy. Without such interpretation, it seems the realist will find it hard to judge what subjects are 'likely to accept'.

Williams (as we will see shortly) understands the notion of 'acceptable' in terms of what 'makes sense' in a given social or historical context. What 'makes sense', in turn, can only be understood by a process of interpretation. Horton (2012, 2018) and Sleat (2014) also advance versions of realist acceptability theories which seem to require a degree of interpretation in order to yield judgements of legitimacy. According to Horton, legitimacy depends on the congruence between rule and what he calls the "salient criteria of legitimacy that are practically operative" in the given historical and political circumstances (2012, p. 142). What the salient criteria of legitimacy are will depend largely on what people's beliefs about legitimacy are, but extrapolating from people's beliefs to salient criteria of legitimacy won't be a simple matter of aggregating beliefs. People may have inconsistent beliefs, or beliefs which are not fully worked out. It is up to the philosopher or the social scientist to make a judgement about which beliefs are 'salient' in the relevant context. Similarly, for Sleat, legitimacy amounts to the possibility of representing a political order as "congruent with a *plausible interpretation* of key beliefs, values and principles" (my italics) within a given society (2014, p. 328). Whether or not the state can be justified or represented in this way requires some degree of interpretation on the part of the philosopher – we must, amongst other things, make judgements about what beliefs are 'important' or 'salient' to legitimacy in a given historical context.[34]

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[34] Isn't some kind of interpretation necessary on an acceptance theory as well? To take Greene's view as an example, it might seem that we need some process of interpretation to determine whether subjects have actually provided quality assent to rule, since such assent is defined as a complex mental state. We might think that, in general, some form of interpretation is always necessary to be able to say

I will mention one further general point about acceptability theories before turning to Williams' view of legitimacy. Acceptability theorists hold that states are legitimate to the extent that their rule can be justified in terms of people's beliefs and attitudes about rule. But rule needn't be congruent with the *totality* of subjects' beliefs and attitudes in order to be legitimate. What kind of beliefs matter? Acceptability theorists tend not to be very specific about this – presumably because the kinds of beliefs which matter will partly differ from context to context. Williams doesn't make any specific suggestions about the kinds of beliefs congruence with which contribute to legitimacy; Horton suggests that it is beliefs about whether or not political institutions are authoritative which are relevant to legitimacy assessments (2012, p. 135).

Beetham (2013, p. 69-90) offers a more detailed analysis of the kinds of beliefs which are relevant to legitimacy-assessments. Beetham argues that these come in two broad categories. First are beliefs about what constitutes an appropriate source of political power. For most societies in history, an other-worldly source of ultimate political power has seemed appropriate – rightful political rule, in many societies, has been understood as rule whose authority ultimately stems from God or another divine source. Nowadays, we tend to believe that the *people* is the only appropriate source of political power, *we* give our rulers their authority. Second are beliefs about how political power ought to be used. These are beliefs which concern the justifiability of the particular distribution of goods present in the society, the way those goods should be distributed, and beliefs about what constitutes the common interest. For example, the legitimacy of many of our liberal market institutions as a basis of the allocation of income and capital seem based on a belief in the moral justifiability of those hierarchies which are the result of fair equality of opportunity, or in the moral justifiability of those hierarchies which (somehow) are to the benefit of everyone, including the worst off. Related to this might be a belief about the common good – for example, a belief that economic growth is a common good, and that liberal market institutions are the most well-suited to bring such growth about.

3.2 Williams' account of legitimacy

To illustrate how a realist theory of legitimacy-as-acceptability works, I will use Williams' (2005) account. Williams' account centres on the notion of an 'acceptable' justification of rule, which is why I characterise his view as an acceptability account of legitimacy. However, Williams combines this with an understanding of the importance

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what mental state another person is in. Be that as it may, the kind of interpretation necessary on acceptability theorists is different. The acceptability theorist requires interpretation in order to determine what the criteria according to which legitimacy ought to be judged are – what, in Williams' terminology, 'makes sense', or what in Horton's terminology constitutes the 'salient criteria of legitimacy' in the relevant context. Such interpretation doesn't appear necessary on Greene's account.

of actual acceptance. Hence, his view might be seen drawing on elements of both acceptance and acceptability.

Williams' account of legitimacy starts with what he calls the 'first political question': the question of the "securing of order, protection, safety, trust, and the conditions of cooperation" (2005, p. 3). This question is first because solving it is the necessary condition of solving or posing any other political question. A solution to the first political question is necessary but not sufficient for legitimacy. To be sufficient, the solution given must be "acceptable", which involves successfully meeting what Williams calls the 'Basic Legitimation Demand' (BLD), where such a (genuine) demand arises.

Williams goes on to specify the conditions of a genuine demand for legitimation arising, and the conditions of such a demand being satisfied. The fact that someone raises a demand for justification is neither necessary nor sufficient for a genuine demand for justification to arise. It is not sufficient, Williams argues, since "anyone who feels he has a grievance can raise a demand, and there is always some place for grievance" (2005, p. 6). Further, it is not necessary, because people can be "drilled by coercive power itself into accepting its exercise" (2005, p. 6). However, the following condition is sufficient for a genuine demand to arise: "A coerces B and claims that B would be wrong to fight back […] By doing this, A claims that his actions transcend the conditions of warfare, and this gives a rise to a demand for justification of what A does" (2005, p. 6). Since modern states claim the right to coerce all subjects who don't comply with the law, a genuine demand for justification exists wherever there exists a modern state.

How, then, can a demand for justification be met, once it has arisen? Meeting the demand for justification involves the state offering "a justification of its power *to each subject*" (Williams 2005, p. 4), that is, to each person from whom the state expects allegiance. Williams gives two necessary conditions for such a justification meeting a (genuine) demand for justification. First, the justification must be "acceptable" or "make sense" to subjects. Second, Williams holds that "might does not imply right" (2005, p. 5), implying that the justification offered cannot simply be an account of successful coercion. More specifically, the acceptance of a justification does not count "if the acceptance itself is produced by the coercive power which is supposedly being justified" (2005, p. 6). Williams calls this the *critical theory principle*.

Williams speaks intermittently of a justification of state power being "accepted" by subjects, and being "acceptable" to subjects. Others have noted this ambiguity, accusing Williams of mixing up two very different concepts, with wide-reaching consequences for how his overall theory of legitimacy should be interpreted (e.g. Wendt 2016, p. 234). I do not think that Williams is confused – rather, I think Williams deliberately combines elements of acceptability and acceptance, noting the

importance of each. It will be helpful to spell out what role actual acceptance plays on Williams' account, and how this relates to his notion of acceptability.

Each subjects' actual acceptance (of a justification of) rule is neither necessary nor sufficient for such rule to be considered acceptable, and hence legitimate, on Williams' account. It isn't necessary because there will always be people who will not accept rule, for whatever reason, even if the state offers a justification for rule in terms which are 'acceptable' in the given historical context. In any given polity there may be people who are "anarchists, or utterly unreasonable, or bandits, or merely enemies" (Williams 2005, p. 136). Further, actual acceptance (even actual acceptance of every single subject) is not sufficient for rule to be considered acceptable and hence legitimate because of the critical theory principle. If acceptance is the product of the coercive power which it is meant to justify, it doesn't contribute towards legitimacy. Williams makes it clear, then, that the question of giving an 'acceptable' justification of power to each subject (i.e. meeting the BLD) is different from the question of whether that justification is actually accepted by those subjects, or, as he also puts it, whether those subjects are "satisfied" with the justification.

However, Williams understands the importance of actual acceptance. He notes: "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" (2005, p. 136).

The connection between actual acceptance and acceptability on Williams' account can be traced to his notion of 'making sense'. Williams understands the idea of what constitutes an 'acceptable' justification of rule in terms of what 'makes sense' (MS) to subjects in a given social or historical context. 'Making sense' is a technical term, and it denotes what Williams calls a "category of historical understanding" (2005, p. 11). Making judgements about what 'makes sense' in a given context requires interpretation. Williams explains the kind of interpretation he has in mind in the following way: when we make a judgement about whether, for example, a distant society's political rule was legitimate, we are effectively asking whether their form of rule would "MS to us if we were them" (Williams 2005, p. 11). This requires representing such rule as intelligible to the people who were subject to it.

The notion of intelligibility Williams uses appears stronger than the notion of rendering something understandable. Williams seems to suggest that we can *understand* how something is intelligible as a justification for rule to others even though that justification is not intelligible *from our point of view*. It may not be intelligible to us as a justification of rule because the associated beliefs seem, to us, blatantly false or completely irrelevant. It will seem to us like a rationalisation of power rather than a justification of

power. For example, while we can certainly understand the notion of divine right, and construe that notion as an intelligible *to others* as a basis of legitimation, given their beliefs about God, such a notion isn't intelligible *to us* as a justification of rule because we consider the beliefs in question blatantly false. We don't believe God appoints absolute monarchs to carry out his will on earth. A justification of rule which 'makes sense' to a subject, and is hence *intelligible* (and not merely *understandable*) to that subject is a justification which that subject finds compelling in some way. Hence, it is the kind of justification which that subject is 'likely to accept'. Divine right as a justification of rule is not intelligible in this sense to us – our beliefs do not make it compelling – and hence this justification is not one that we are likely to accept.

Acceptance, then, is not the same as acceptability, even though acceptance normally *provides evidence of* acceptability. If subjects willingly accept their submission to the state's rule, this usually provides strong evidence that the state is acceptable to those subjects. Evidence of actual acceptance, in the form of obedience to rule, expressions of support for the state, acts of recognition of state authority, etc., will provide hugely important pieces of the puzzle for determining whether or not the BLD has been met. Similarly, if there is widespread protest or rebellion, this usually provides strong evidence that the state isn't acceptable. However, not all instances of acceptance will provide evidence of acceptability.[35] If acceptance is the product of the coercive power it is meant to justify, it doesn't constitute evidence of acceptability.

One further aspect of Williams theory deserves a mention. Williams says that his notion of 'making sense' is an evaluative concept, but he denies that it is normative when applied to other societies. What some other people have understood as an intelligible justification of political power need not give us any reason at all to accept such a justification of political power. As Williams says, "we do not think, typically, that these considerations should guide our behaviour, and there is no point in saying that they ought to have guided other people's behaviour" (2005, p. 11). The fact that the historical category of understanding denoted by 'making sense' is evaluative and not normative should, however, not be taken to imply that the standard of legitimacy this feeds into is not normative, when applied *to us*. It matters to us whether our states rule in a way that is acceptable by our standards, and such considerations should plausibly guide our behaviour towards our states.[36]

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[35] Does all evidence of non-acceptance contribute towards illegitimacy, on Williams' account? It is clear that Williams does not think that each person's acceptance is necessary for legitimate rule. He might nevertheless hold, as Greene does, that each instance of non-acceptance detracts from legitimacy. Williams' account, however, is not very clear on this point, although it seems to me that Williams thinks that the non-acceptance of the anarchist, for example, doesn't detract *at all* from legitimacy.

[36] The normative reasons provided by our state's acceptability to us could, of course, be outweighed by other reasons.

3.3 Acceptability to all, or acceptability to most?

Williams argues that there is a sense in which legitimacy requires that a justification be offered *to each subject* of political rule. This is because a subject to whom the state doesn't even try to justify its rule ceases to be a political subject in the proper sense. An individual to whom the state doesn't offer some kind of justification for its coercive power is no better off than an enemy of the state, or someone engaged in direct conflict with the state. The 'justification to all' requirement falls out of Williams' understanding of what a political subject is. Any legitimacy-as-acceptability theory will likely accept this aspect of Williams' theory. I see no reason to reject the idea that there is some sense in which, in order to qualify as a political subject at all, there is a sense in which the state must not only have some de facto power over you, but also offer some kind of justification of that power. But must the justification provided also be *acceptable to each* subjects, or only to most subjects?

Williams appears to settle for the latter option, although this is a matter which is up for interpretative dispute. Williams uses both the formulations 'justification to each' (e.g. p. 4) and 'acceptability to each' (e.g. p. 7) when referring to the constraint which BLD places upon legitimate political rule.[37] Williams is clearly attuned to the problem that there are some people within any given constituency who may never come to accept the rule they are subject to (recall his list of those who may never accept rule: the "anarchists", the "utterly unreasonable", the "bandits" and the "enemies"). I have suggested that "acceptable", on any realist account of legitimacy-as-acceptability, must mean something akin to 'likely to accept', based on subjects' actual beliefs and attitudes. It should be clear that on such an understanding of 'acceptable', it is not true that (any form of) the state is 'acceptable' to the anarchist. The very defining feature of states – the fact that they are hierarchical organisations whose rule is backed up by coercive force – is inimical, we can assume, to the anarchist's moral outlook. If this interpretation is correct, we must understand Williams' talk of 'justifiability to each' not in terms of 'justification offered to each, which is acceptable to each' but instead in terms of 'justification offered to each, which is acceptable to most'. When Williams says that the state must have "something to say" to each person who they constrain (2005, p. 135), he seems to be invoking this less ambitious sense of offering a justification to each subject, one which doesn't involve such a justification being

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[37] Williams (2005) uses both the formulations 'justification to each' (e.g. p. 4) and 'acceptability to each' (e.g. p. 7) when referring to the constraint which BLD places upon legitimate political rule. Williams is dismissive of the "insatiable ideal" of universal consent, and I understand this dismissiveness to apply to the ideal of universal acceptability as well. In the passage in which Williams most explicitly rejects legitimacy as 'acceptability to all', he says that the theorist of legitimacy "may invoke absolute or universal conditions of legitimacy, which any "reasonable" person should accept; but in doing this, he or she speaks to an audience in a given situation, who share these conceptions of reasonableness, or whom the theorist hopes to persuade—by this very text, among other things—to accept them" (2005, p. 136).

acceptable to all. I read Williams as proposing, as a necessary condition of legitimacy, that the state offer a justification of rule which addresses or concerns each subject; which must be acceptable to (i.e. 'likely to be accepted by') 'a substantial number of the people', where the exact number and identity of those to whom it must be acceptable is dependent on the context.

On this way of reading Williams, we are left with a small puzzle. What should we make of Williams' references to 'acceptability to each'? I will suggest that there is one sense in which this phrasing is compatible with the reading of Williams I am offering. As noted above, Williams understands 'acceptability' partly in terms of what 'makes sense' to subjects in a specific political and historical context. What 'makes sense', in turn, is a category of historical understanding. Any specific individual's beliefs and attitudes might be out of sync with his or her political context and hence what 'makes sense' in the context. The realist acceptability theorist, I have suggested, cannot posit acceptability to each subject based on that individual's beliefs and attitudes about rule as a necessary condition of legitimacy because it is not true that the state's rule is 'likely to be accepted' by each subject. However, it is true that, given a justification of political rule which 'makes sense' in the context at hand, such a justification is likely to be accepted by any subject taken at random, or any 'average' or 'representative' subject.

My argument generalises to other realist theories which posit acceptability as a criterion of legitimacy. It seems clear that on a realist notion of 'acceptable', there is no way to construe the state as acceptable to all subjects, if some of those subjects are e.g. anarchists. One of the anarchist's core beliefs might be that all forms of authority are incompatible with personal freedom. Because of this, she may be unlikely to accept rule of any kind. It thus seems unlikely that any realist theory of legitimacy which requires 'acceptability to all' would succeed. Such a theory would implausibly have to posit that all subjects, including the anarchist, are in some sense likely to accept rule.

In Chapter 1, I noted that my definition of a realist theory of legitimacy might not seem to offer a sharp way to distinguish between realist theories of legitimacy, and in particular realist acceptability theories on the one hand, and 'rational acceptability' theories of legitimacy, such as those commonly proposed within the public reason literature, on the other. These latter theories hold, similarly to Williams' theory, that legitimacy is based on the possibility of providing a justification of rule to each subject in a way which is acceptable to all subjects (or at least those subjects who are 'normal' or 'reasonable'). By now, however, two differences between realist acceptability theories and public reason theories of legitimacy should be clear. First, the notion of 'acceptability' which the realist uses is different. The realist understands the notion of acceptability in terms of what subjects are likely to accept – if they were to consider

the question of political rule directly, or if they had to make a choice of accepting or rejecting rule. The public reason theorist, on the other hand, tends to mean by acceptability what subjects have (sufficient) reason to accept (e.g. Gaus 2010) or what reasonable subjects would accept, under certain idealised conditions (e.g. Rawls 2001). In stark contrast to this, the realist notion of acceptability needn't imply that subjects to whom the state's rule is acceptable, have *a reason to accept* the state's rule (other than, perhaps, the reason provided by the fact, if it is a fact, that it is valuable to live under a political order which rules in accordance with one's beliefs).

Second, my argument has suggested that the realist, because of the notion of acceptability she uses, is bound to reject the possibility of offering a justification of rule which is truly *acceptable to all* subjects. This suggests another stark contrast with public reason theorists, who hold that rule must be acceptable to each and every ('normal' or 'reasonable') subject in order to be legitimate.

3.4 Normative upshots and implications

I have argued that Williams' account of legitimacy should be understood as one which holds justification to all subjects, but only acceptability to most, as a necessary condition of legitimacy. Further, realist acceptability theorists, as I have noted, must use a notion of acceptability which retains a close link to acceptance. What does this imply when it comes to the normative upshots such an account can offer?

We might think that an account of realist legitimacy which posits acceptability rather than acceptance has a greater chance at delivering the kinds of normative upshots we are interested in (whether they be Strong, Weak or Moderate). It seems clearly impossible to achieve universal acceptance, but it might seem possible to achieve universal acceptability. However, my argument suggests that the realist cannot posit universal acceptability as a criterion of legitimacy. This stems from the notion of acceptability that the realist uses. Even if it is true that all subjects have sufficient reason to accept the state, or would be unreasonable if they didn't, this is not the sense in which acceptability is used on realist theories. The realist notion of 'acceptability' retains a strong link to actual acceptance, and means something akin to 'likely to accept' (in the historical and political circumstances at hand). It doesn't seem true for any state that every single subject is likely to accept rule. There will always be subjects whose beliefs and attitudes are simply not congruent with the way the state rules. The state's rule is not acceptable to such a subject.

On the basis of this, we can derive two important conclusions about the normative upshots of an acceptability theory of legitimacy. First, even if the acceptability of rule to one subject would be sufficient to yield the state's right to rule and the subjects' obligation to comply for that subject, realists cannot hope to yield a general right to

rule or a general obligation to obey in this way, since there will always be some individuals to whom the state is not acceptable. In this way, I argue, realist acceptability theories share the limitations of an acceptance theory, in that they both seem unable to deliver universal acceptance or acceptability. However, I argued in the last chapter that there is no reason to think that the kind of acceptance to rule which is at play in realist theories would bind the subject who gives such acceptance to political rule. This same point applies, with even greater force, to the possibility that the acceptability of rule to an individual subject should change her rights and obligations vis à vis the state.

Second, because the realist notion of acceptability retains a close link to actual acceptance, it seems like the normative upshots of widespread acceptability will be very similar to those of widespread acceptance. The congruence between subjects' beliefs and attitudes about rule and actual rule will provide most subjects with strong prudential and moral reasons to obey the state's directives, support the state in other ways, or at the very least, refrain from trying to dismantle the state. There is nothing which means that the reasons generated by an acceptability account would *necessarily* fall short of grounding duties on the part of subjects, and a right to rule of the state, but whether or not it does this will depend on the particular circumstances, and what the possible alternatives to the state's rule are.

Let's turn now to the value of acceptability vis à vis acceptance. In the last chapter, I noted that Greene describes the value of quality assent in terms of three interrelated values: the non-alienation of subjects, the quantitative and qualitative stability of rule, and the political alignment between states and subjects. Does acceptability of rule yield these same values? It seems that it does. The acceptability of rule to a subject means that such rule is congruent with (some of her) beliefs and attitudes towards rule. Such congruence appears to promote the non-alienation of subjects. It also forms the basis of political alignment on the basis of shared beliefs and values about how political power should be wielded. And the acceptability of rule to a subject would also seem to promote the stability of rule. Given that realist acceptability must retain a strong link to actual acceptance, the 'acceptability' of rule normally correlates strongly with the acceptance of rule. If acceptance of rule contributes towards greater stability of rule, acceptability would seem to contribute in much the same way.

We might think that there is some further value of subjects actually accepting rule which is not captured by mere acceptability. This seems right, at least sometimes. As I noted in the previous chapter, the value of acceptance plausibly depends on what kind of acceptance it is. If the acceptance is conscious and intentional, it appears to have greater value than mere acceptability. If the acceptance is, on the other hand, subconscious or less than intentional, it is more difficult to pinpoint what greater value

such acceptance has compared to mere congruence between subjects' beliefs and attitudes and the state's rule.

3.5 Conclusion

In this chapter, I have investigated legitimacy-as-acceptability theories of legitimacy. I have explained what I take to be the main difference between acceptance and acceptability theories, and noted some general features of acceptability theories (3.1). I continued with an examination of Williams' account of legitimacy, with a particular focus on how acceptability and acceptance are related (3.2). I argued that Williams should be interpreted as demanding, as a requirement on legitimacy, 'justification to all' but only 'acceptability to most'. I noted that this point generalises to acceptability theories in general – realists cannot defend, as a necessary condition on legitimacy, that rule be truly 'acceptable to all' subjects, based on their (actual) beliefs and attitudes (3.3). Finally, I discussed the normative upshots and implications of acceptability (3.4). I noted that the normative upshots and limitations of legitimacy-as-acceptability are similar to those of legitimacy-as-acceptance.

Chapter 4. Legitimacy as a distinctively political concept

In the last two chapters, I examined the role which acceptance and acceptability play in realist theories of legitimacy. In doing so, I argued that while the normative upshots of realist theories of legitimacy are perhaps more impressive than many have assumed, realist theories nevertheless struggle to produce normative upshots of the kind typically expected from a theory of legitimacy.

In this chapter, I take a step back, by asking whether we should fault realists for this. Realists like Greene and Williams appear to think that holding their theories of legitimacy to fault for not delivering these kinds of normative upshots would be misguided or misplaced.

In the first chapter, I mentioned Williams' way of distinguishing between realists and moralists. Williams defines as moralist any view that makes "the moral prior to the political" (2005, p. 2), and contrasts this with political realism which does not make the moral prior to the political and instead gives "a greater autonomy to distinctively political thought" (2005, p. 3). I noted it is unclear precisely what this distinction amounts to. In this final chapter, I return to Williams' distinction, and to the idea that realist theories of legitimacy ought not be evaluated against (certain) moral standards.

If realists reject 'pre-political' moral principles, then critiquing a notion of legitimacy because it fails to live up to a pre-political moral standard seems at least partially wrong-headed. The realist's defence of why legitimacy should be understood as a notion in a distinctively political register, if it holds up, can serve as one kind of argument for why we shouldn't fault realist theories of legitimacy for not delivering the normative upshots moralists tend to expect from such a theory.

In order to understand whether this kind of argument holds up, however, we first need to see whether realists' arguments in favour of rejecting 'pre-political' morality make sense, and serve to distinguish realist from moralist theories of legitimacy.

The realists' rejection of 'pre-political' morality could take several forms, and I pick out three which I think are the most plausible. First, we might understand the rejection of 'pre-political' morality as a rejection of normativity which isn't a 'distinctively political' form of normativity. I investigate this claim in relation to Williams, since his account has, to some commentators, appeared to suggest this reading. Greene's account, however, quite explicitly embraces moral principles, so cannot be 'realist' in this sense. I argue that Williams does not give us good reason to reject all normativity which isn't 'distinctively political'. Further, there is no reason to think his account of legitimacy doesn't rely on moral principles. An appeal to a distinctive form of political normativity

does not appear a hopeful avenue for the realist who wishes to shield herself from moral critique.

Second, we might understand the rejection of 'pre-political' morality as the rejection of *non-political* moral principles. Such standards, we might think, are moral standards which don't make, as Greene says, 'essential reference' to the political context, or which do not arise outside of the political context. I argue that, while it is true that the moral principles which Williams' and Greene's accounts of legitimacy rely on do make 'essential reference' to politics, this doesn't reliably distinguish realist theories of legitimacy from moralist theories, and neither does it shield realists from extensive moral critique based on those moral principles which essentially relate to politics.

Third, we might understand the rejection of 'pre-political' moral standards as the rejection of all standards which are in some sense 'external' to the political context at hand. Realists who reject such external standards might usefully be called 'internalist'. There are two slightly different ways a theory could be 'internalist' in this sense, however. On the one hand, we can think of a theory as 'internal' to the political context at hand if it derives the standard of legitimacy from the very concept of politics itself. If such a derivation were possible, legitimacy would be a thoroughly political standard because it is intimately tied up with *what it means to be a political system*, and the specification of the standard of legitimacy would not rely on any moral principles not already present in the concept of politics itself. This appears to be how Greene understands the 'realism' of her account of legitimacy.

On the other hand, we can think of a theory as 'internal' to the political context at hand if it derives the standard of legitimacy based only on the attitudes and beliefs of those subject to power, or those attitudes and beliefs subjects could easily come to accept. This, I suggest, is how we should understand Williams' internalism. Williams builds a standard of legitimacy based only on the attitudes and beliefs of those subject to power (and those attitudes and beliefs towards power they *would* have, if they through a process of reflection came to see their political subjection for what it is). This latter criterion, derived from his critical theory principle, is based on what Williams takes to be a universal principle, namely that 'might does not imply right'. Because it is truly universal, it is in some sense present in every possible political context, even though it may not be explicitly endorsed by subjects.

I express some doubts about the first kind of internalism outlined here, that of deriving the standard of legitimacy from the concept of politics or a political relationship. I am not sure one can derive a realist standard of legitimacy from the notion of politics or a political relationship – and if one can, it seems one has to start with a concept of politics much more thickly normative than one we are used to. However, I do think we can make sense of constructing an 'internalist' standard of legitimacy based on the idea of

only appealing to those beliefs and attitudes already shared by subjects to political power, and those beliefs and attitudes that they could easily come to share through a process of critical reflection.

If realists are understood as developing internal accounts of legitimacy, critiquing them on the basis of moral principles which are not shared by the subjects to political power seems to partially miss the point. I argue that there are many good reasons we might want an 'internal' theory of legitimacy, and some kinds of critique based on external moral standards would seem to undermine the good reasons for developing an internalist moral standard.

However, an 'internalist' standard of legitimacy cannot give us answers to all of the problems that we want answers to – specifically, the problem about whether or not the state rules rightfully or permissibly, and whether we have a duty or a reason to obey or not. An internalist standard of legitimacy at best gives a partial answer to these questions.

4.1 A distinctively political normativity?

It has sometimes been suggested that the normativity present in realist accounts of legitimacy is of a distinctive kind – a 'distinctively political normativity'. It tends to be assumed that this kind of normativity excludes all moral normativity.[38] If there is such a normativity, it would seem realists instantly have a very strong argument to suggest that their accounts of legitimacy needn't be judged based on moral standards. Doing so would be committing something akin to a category mistake, judging a concept based on standards which are not appropriate to it.

While Williams is ambiguous on whether or not he thinks his account rejects all moral principles, Greene is clear that her account of legitimacy explicitly relies on a moral principle, namely, the "moral ideal of voluntary subjection to rule" (2019, p. 69). Greene clearly does not see her realist credentials as dependent on whether or not her theory appeals to moral principles or not. Williams, on the other hand, says rather ambiguously, that *if* the BLD (the principle that rule must be justified to each subject in a way which is 'acceptable' to subjects in general) is a moral principle, then it is not prior to the political.

Williams thus leaves open the possibility that the kind of normativity involved in his account of legitimacy is of a distinctive kind of political normativity. In this section, I will

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[38] See Maynard and Worsnip (2018) for a detailed discussion of realist arguments in favour of a 'distinctively political normativity'. Maynard and Worsnip's main argumentative strategy is to show that, wherever there is a purportedly 'distinctively political normativity', there are no good arguments to show that we are not, in fact, dealing with moral normativity.

investigate whether Williams provides us any good reason to think that his account relies on a distinctively political normativity. I don't think he does.

Recall that legitimacy, on Williams' account, requires the state to provide an 'acceptable' solution to the Basic Legitimation Demand. Whether or not an acceptable solution to the BLD has been offered partly depends on the critical theory principle, namely, the principle that "the acceptance of a justification does not count if the acceptance itself is produced by the coercive power which is supposedly being justified" (2005, p. 6). Critics who argue that Williams' account relies on moral principles have tended to focus on the critical theory principle, arguing that this principle is a moral principle, and hence that Williams' account doesn't offer a kind of normativity which excludes all appeal to moral normativity.[39]

Contrary these critics, I do not think that the critical theory principle is best understood as a substantive moral principle – I think it is best characterised as an epistemological principle, as I will explain. However, this does not show that Williams' account offers a distinctively political normativity. The critical theory principle being a principle of epistemology is perfectly compatible with the BLD itself being a moral principle, and hence with Williams' account of legitimacy offering a moral standard of legitimacy.

Williams offers the most detailed exposition and defence of the critical theory principle in his *Truth and Truthfulness* (2002). Here, Williams argues that the critical theory principle offers is not just another moral principle but something quite different. The critical theory principle, he says, "rests on a genuinely universal principle, that coercion in itself cannot constitute legitimation" (Williams 2002, p. 221). Williams understands this principle not as a substantive moral principle but as a principle about the justification of (moral) beliefs. The critical theory principle, in other words, is best understood as an epistemological principle – or, if one so wishes, a principle of moral epistemology. The principle relies on the idea that "some methods of belief-formation are simply coercive" (2002, p. 221), and this applies to moral and non-moral beliefs alike. Coercive methods of belief formation do not, in general, yield good reasons for belief. While there is no general agreement on what kinds of inquiry, in general, tend to favour truth in the moral domain, there is, Williams wants to claim, some agreement that certain methods of belief formation are *not* valid. Such agreement relies not on agreement on some specific moral theory, but rather on an understanding of what could constitute a valid reason for belief. As Williams states: "if one comes to know that the sole reason one accepts some moral claim is that somebody's power has

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[39] See e.g. Estlund (2017, p. 398) and Larmore (2013, p. 293) for critiques of Williams along these lines. To be slightly more precise, Estlund argues that the combination of Williams' critical theory principle and his making sense principle (collectively called by Estlund the 'critical sense principle') is a moral principle.

brought it about that one accepts it, when, further, it is in their interest that one should accept it, one will have no reason to go on accepting it" (2002, p. 231).

The same distinction, between substantive moral principles and principles of moral epistemology, helps us understand why Williams doesn't understand "might does not imply right" as a substantive moral principle. When explaining why, once the question of the legitimacy of someone's power has been raised, it cannot be answered simply by pointing to that person's power, Williams says that "this is a necessary proposition, a consequence of the axiom about justification" (2005, p. 7). The principle 'might does not imply right' says, to put it simply, that one cannot justify φ merely by asserting φ. This follows on any plausible understanding of what counts as a justification.

Williams seems justified, then, in arguing that the critical theory principle is not just another moral principle. However, my defence of Williams on this point does not show that his theory of legitimacy is not a moral theory, or that it does not rely on a moral principle. The critical theory principle is merely one principle which supports the BLD, in that it specifies the conditions under which the BLD is met. Even if the critical theory principle isn't a moral principle, the BLD might very well be.

Consider the following example, deliberately constructed to be closely analogous to the way in which the critical theory principle supports the BLD. I might hold the following principle about being a good friend: I am not a good friend if I force my friends to always do whatever I want to do, without any consideration of my friends' interests or preferences. Applying this principle to my friendship group, in order to investigate whether or not I am a good friend, we could start by asking whether or not my friends always feel forced to go along with my preferred activity. But this would not be enough. If I am a skilled manipulator, I might have successfully convinced my friends that my interests and preferences are really their own interests and preferences. Thus, in order to get to the bottom of the matter, we might have to apply something very much like the critical theory principle: are my friends happy to go along with whatever I decide, *merely* because I exert power over them and have manipulated them in some way, or would they be happy to go along with my wishes even if I hadn't been coercive and manipulative? The critical theory principle is a principle of moral epistemology here: it is a principle primarily about whether or not my friends' have acquired their beliefs and preferences in a sound way. But the original principle, the one about what makes a good friend, is no less moral for that.

This point generalises. For any given moral principle, there might exist a number of further principles, which are themselves either normative in some non-moral sense or entirely non-normative, which determine whether or not the moral principle holds. For example, we might hold that one should keep one's promises, and yet need to know what kinds of actions and words indicate a promise in order to be able to determine

whether or not a specific act constitutes breaking a promise or merely letting someone's expectations down. The principles we use to determine whether or not a specific act constitutes a promise might be entirely descriptive, based on what kinds of phrases constitute promising in a particular social context. This doesn't affect the status of the original principle as a moral principle.[40]

To sum up: Williams' argument that the critical theory principle as 'not just another moral principle' holds up, but it does not show that the BLD isn't a moral principle, and hence that his theory of legitimacy does not present a moral standard of legitimacy. There is nothing strange about a moral principle supported by a non-moral principle. This is how I think we should conceive of the relationship between the critical theory principle and the BLD – the critical theory principle is a principle of epistemology which supports the principle that the state's rule must be, in some sense, justifiable to each and every subject in a way which is acceptable to them. Williams gives us no reason to think that this latter principle is not a moral principle.

Finally, I don't think that Williams himself would have been happy with the idea of a 'distinctively political normativity'. Williams is clear, for example, that moral considerations are part and parcel of political disagreement, even though moral disagreement clearly doesn't exhaust political disagreement (2005, p. 77). Further, Williams is, in general, sceptical of any attempt to offer a sharp distinction between different kinds of reasons – whether they be moral, prudential or epistemological – and he never explicitly suggests that his theory of legitimacy doesn't rely on moral principles.

My argument in this section has been concerned exclusively with Williams' account of legitimacy, since, as I noted at the start, Greene's account explicitly embraces moral principles. I have corrected one, as I see it, faulty interpretation of Williams' critical theory principle, and drawn out the implications of this interpretation for the question of whether Williams' notion of legitimacy is moral or not. I do not think the question of whether there is a 'distinctively political normativity' has been definitively settled, and I think there are some avenues still open for the realist explore in this regard.[41]

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[40] We might further note that something being a principle of moral epistemology doesn't rule out it being, at the same time, a moral principle. Distinguishing sharply between principles of justification, on the one hand, and principles of substantive morality, on the other, might be difficult. This is not just because principles about how moral beliefs are justified can have great impact on substantive moral theory, but also because it seems plausible that some epistemic principles are also, at the same time, moral principles. For example, it might sometimes or always be morally wrong to form beliefs on the basis of insufficient evidence.

[41] In particular, it seems like the realist might simply stipulate that legitimacy represents a distinctively political normativity, not explained in terms of, or reducible to, any moral notion. The plausibility of this kind of approach, it seems to me, would depend on whether it is possible to connect such a notion of legitimacy with other notions which display a distinctively political normativity. Prime candidates for such normative notions, which feature heavily in realist writings, might be: (civic) respect, toleration,

However, the viability and distinctiveness of a realist notion of legitimacy does not hinge on the existence of a distinctively political normativity, as I hope the rest of the argument in this chapter will show.

4.2 A rejection of non-political moral principles?

Neither Williams' nor Greene's accounts, then, rely on a 'distinctively political' kind of normativity. This suggests the normativity of their accounts derives from moral principles.[42] If so, their rejection of moral principles must be discriminating. It must be the rejection only of certain *kinds* of moral principles.

Perhaps realists reject all moral principles which are not *political* moral principles in some important way. Greene suggests the following reading of 'pre-political' moral standards: they are standards about "what is good and bad for human beings that do not need to make reference to political subjection, i.e. subjection to rule of some sort" (2017, p. 39). Perhaps the moral values which realist legitimacy relies on are all *political* moral values in some important or substantive sense – either because they make essential reference to the political context, or they present normative standards relating to moral problems which *only arise in* political contexts. Greene's 'ideal of voluntary rule', while it is based on a moral principle, makes "essential reference" to political subjection. Something similar can be said for Williams' account of legitimacy. Williams account of legitimacy doesn't rely on any moral standards which makes claims about what is good and bad for human beings outside of political situations. The BLD can be seen as a moral principle which makes 'essential reference' to political subjection, and hence it only makes claims about what is good and bad in situations of politics.

How might this help the realist? If supplemented with some further premises about the irrelevance of certain non-political moral standards to the political sphere, it would seem to suggest some form of shield against moralist critique on the basis of such moral standards. Such further premises might be: standards of individual morality do not have any direct relevance to political moral standards; or: we cannot begin to

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opposition, and perhaps some kind of Schmittian notion of political friends and enemies. In other words, the plausibility of this kind of stipulative definition of legitimacy as a distinctively political notion would depend on the plausibility of a broader realist political theory based on a wide web of such interconnected normative notions. An argument in favour of such a notion would, I think, consist of actually *doing* some realist political theory using these notions. Such an argument could not be given in the space of meta-political theorising in which much of the realist-moralist debate currently takes place. Estlund (2020, p. 51) mentions this possibility in passing, without giving it much further thought. Sluga (2014), I think, can be seen as an attempt to do precisely this, and Sluga himself suggests that his project might be interpreted in this way. He says, "We can dislodge the normativist only by showing that there is a more plausible alternative to his view" (2014, p. 24).

[42] Other kinds of normativity – of which epistemic, aesthetic and prudential normativity might be the most commonly accepted – do not seem to apply.

formulate any moral standards for politics before we look at what is distinctive about the political context. For example, if the moralist presses the objection against a realist account of legitimacy that it doesn't properly respect personal autonomy, the realist might ask how the ideal of personal autonomy, as it applies in interpersonal interactions, is relevant or translatable to the political context. This is only a sketch of an argument – much more would have to be said by the realist about why standards of morality which we know primarily from the domain of interpersonal relations cannot or should not be translated to the political context.

I will not provide more than a sketch here, because I do not think that this is a promising avenue for realists. It is true that Williams and Greene only make reference to moral principles which are distinctively political, in the sense that the principles they offer for the evaluation of states refer to situations of political power and subjection and how political power should be wielded. However, this is a feature they share with many 'moralists'.

Consider Pettit's (2012, Chapter 3) account of legitimacy as non-domination. Pettit's notion of legitimacy is derived from a principle of non-domination. This principle yields a criterion of legitimacy based on the popular control of subjects over their state. The sense of non-domination which Pettit employs makes 'essential reference' to political subjection in the same way as Greene's notion of voluntary rule makes essential reference to political subjection. Pettit's criterion of non-dominating subjection, and Greene's criterion of voluntary subjection, are structurally similar. They are both based on an idea of what constitutes wrongful or inappropriate political subjection. Yet Pettit and Greene diverge hugely on what they think their respective criteria yield in terms of necessary conditions for legitimacy. From the idea that political rule must be non-dominating, Pettit derives a criteria of legitimacy based on popular democratic control. Greene instead thinks that the ideal of voluntary subjection implies that subjects' quality assent to rule is the appropriate basis of legitimacy. Pettit, it seems, has every right to launch a critique of realist theories of legitimacy on the basis of the *political* moral standard of non-dominating rule, and to criticise realists for failing to respect his principle of non-domination.

Finally, Estlund (2020, p. 59) makes the point that many of the paradigmatic principles of a liberal political morality are *essentially political* moral principles in the sense that they do not have any direct analogue in individual morality: e.g. the principle that subjects should have certain guaranteed basic rights and liberties, that certain goods or opportunities ought to be distributed in some specific way, or that the social structure itself ought to meet certain standards. The rejection of all moral standards which do not make essential reference to the political still leaves the realist open to moral critique on the basis of all principles like these.

4.3 Realist legitimacy as an internalist standard

A more promising way of understanding the distinction between realist and moralists, I suggest, is based on the idea that realists are trying to develop theories of legitimacy which are 'internal' to the political context at hand. An 'internalist' account of legitimacy is one which does not rely on any 'external' moral principles, and which is built only on values present in the political context at hand.

Before I explain and assess the internalism of Greene's and Williams' theories of legitimacy, however, I want to address, very briefly, two questions. First, why would we want to develop an internal standard of legitimacy which rejects external moral standards, when judging the legitimacy of a specific political system? Second, if realist theories of legitimacy are 'internalist', does this shield them from certain forms of moralist critique, or suggest that such critique is wrong-headed in some way?

I think there are two primary reasons for developing an internal standard of legitimacy. First, an internalist theory of legitimacy recognises that the subjects of political power have a special standing in relation to such power. Subjects have a special standing because they are the ones who experience the state's coercion, and they are the ones from whom the state expects allegiance. Their beliefs about what kinds of rule are acceptable are therefore of special relevance to the justification of that rule. Subjects, in short, should have a say about their own subjection. Second, the problem of legitimacy is, partly, a practical political problem. Securing widespread acceptance improves the ability of any political system to deliver further political goods. It is the acceptance given by a state's subjects' which is necessary for rule to be able to deliver these political goods – not the acceptance of other people.[43] Thus, in attempting to rule, states will necessarily seek their own subjects' approval.

Now for the second question. Is it, in some way, wrong-headed to critique an internal standard of legitimacy based on external moral standards? There seem to be a couple of reasons why it might be. First, such a critique might simply miss the point. If realists deliberately formulate a standard of legitimacy based only on the moral values present within a political context, it seems mistaken to criticise it for failing to live up to other, external standards. Realists are not claiming that their accounts present such standards. Second, and more importantly, it seems wrong-headed to criticise realist theories of legitimacy by holding them to external moral criteria if we agree with the value and the point of developing an internalist theory of legitimacy, and such external critique is incompatible with internalism. Telling someone who thinks that her regime is legitimate that it is in fact illegitimate appears to involve a rejection of that subject's

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[43] Securing recognition as a legitimate state from e.g. the UN might help with various political aims, too. But such recognition would partly be based on whether or not the state is perceived as legitimate by its own subjects.

special standing with regards to her own state. Whether or not external critique is in fact incompatible with internalism, however, seems to depend on the context. We can imagine several scenarios, and only some of them seem to deny the primacy of the subject's own judgement about legitimacy.

Crucially, whether or not this line of defence is open to realists depends on whether their 'internalism' holds up – that is, whether they can show that their theories in fact do reject external moral criteria. I provide a critical examination of Greene's internalism in this section, and of Williams' internalism in the next. I suggest that it is doubtful whether Greene's internalism holds up under scrutiny, but that Williams' internalism appears more promising.

4.4 Greene's internalism

Greene (2017) argues that her account of legitimacy can be derived from the very notion of a political relationship.[44] In this way, Greene argues that her theory of legitimacy is 'internal to the political' by rejecting all appeal to external moral standards.

Greene argues that one of the main challenges for a realist theory of legitimacy is that of "deriving a standard for political legitimacy from a definition of political order, while at the same time, showing how it is distinct from political order" (Greene 2017, p. 1). Greene holds that legitimacy has a special relation to the notion of political order. As she puts it, "to say that a political order is illegitimate is to say that it is failing *by some standard bound up in what it is to be a political order*" (2017, p. 5, my emphasis). Yet, legitimacy and securing political order are not the same thing. To claim that they are the same would be to claim that solving the first political question, i.e. securing the basic conditions for security, trust and cooperation, is sufficient for legitimacy. This would be a broadly Hobbesian answer to the question of legitimacy, which both Williams and Greene reject because they think that there is a difference between solving the problem of order in an appropriate and an inappropriate way. The challenge, as Greene puts it, is to provide a standard of legitimacy which is "derived but distinct" from the idea of a political relationship. It needs to be derived from the idea of a political relationship if it is to avoid moralism, and it must be distinct from it if it is to avoid collapsing the idea of legitimacy into the idea of the mere securing of political order.

Greene proposes that an ideal of 'voluntary rule', understood as a situation in which subjects willingly accept the system of rule to which they are subject, because they

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[44] Some have interpreted Williams as also thinking that his theory of legitimacy can be 'derived' from the notion of politics itself (e.g. Hall 2015, Greene 2017). However, it seems to me that Williams is not so much focused on what the notion of politics entails as he is focused on building an account of legitimacy using only the building blocks of subjects' beliefs and attitudes about rule.

regard it as connected to some values that they hold, can solve the "derived but distinct" problem she identifies. The condition of 'voluntary rule' arises from the idea of political power implicit in the political relationship because "all political orders claim to exercise their power and authority on the grounds that it provides some benefits to subjects or advances some ends they regard as worthwhile" (Greene 2017, p. 34). The standard of voluntary rule clearly distinguishes legitimacy from mere political order. There are ways of solving the first political question which are compatible with voluntary rule, in Greene's sense, and ways of solving the same question which are not compatible with this standard.

The interesting question, for our purposes, is whether it is the case that an ideal of voluntary rule, and hence Greene's account of legitimacy, can be derived from the idea of a political relationship itself. Greene argues that such a derivation is possible. She starts by characterising the idea of a political relationship in the following terms (Greene 2017, p. 36):

> "A political relationship can be defined as a system of social order in which there is generalized obedience to a ruling organization. The system can be characterized by an intentional ordering of social interactions, an ordering that is oriented towards some end beyond itself. For example, the interactions between subjects may be ordered towards the end of peaceful coexistence, military might, commercial prosperity, individual autonomy, etc. Thus, the system of power necessarily presents itself as a means to some worthwhile end."

Greene is here making three separate claims about what constitutes a political relationship. First, that a political relationship or system requires generalised obedience to a ruling organisation. Second, that a political relationship or system is one which is oriented towards some end beyond itself. And third, that a political relationship necessarily 'presents itself' as such. Based on this third claim, Greene argues that every kind of political system contains an implicit aspiration, based on the end beyond itself which it professes. From the fact that any political system necessarily 'presents itself' as having certain worthwhile end, Greene derives the implicit aspiration of any political order as an aspiration to be "accepted by those who are expected to obey, as an appropriate means to some worthwhile end." (2017a, p. 37).

I am doubtful, however, of whether this derivation works. Perhaps there is some sense in which all political systems (or the rulers of these) necessarily 'present themselves' as having certain worthwhile ends, and that because of this, all political systems aspire towards being accepted by people. Greene thinks that because a political system necessarily presents itself to its subjects as having a worthwhile end, it can only be successful in the endeavour of presenting itself if subjects accept or receive the

presentation of the regime as correct. There is something to this suggestion. If I intentionally self-present to my colleagues as having certain worthwhile personal projects, by telling them about these or giving them other kinds of evidence, my very act of self-presentation is only successful if my colleagues start to see me the way I intend. When I intentionally present myself in a certain way, I want people to see me in that way, and hence such self-presentation can only be successful if people do start to see me in that way.

But recall that Greene's characterisation of what constitutes a political relationship contains three claims – the second one is that a political relationship is one which is oriented towards some end beyond itself. Why should we not, from this, derive another implicit aspiration of a political order, namely, to actually achieve those ends? If we think that both of these aspirations are implicit in any political system, we will be able to derive a theory of legitimacy which is dual – part of legitimacy would involve fulfilling the aims the political system is oriented towards, and part of legitimacy would involve achieving acceptance of rule on the basis of a recognition that those aims are worthwhile.

Greene might tweak her definition of a political relationship in response to my objection. Perhaps a political relationship need not actually have any aim beyond the exercise of power for power's sake, but merely present itself as having such an aim. Thus, it would only have one aspiration, namely, the acceptance of subjects on the basis of recognition of this (chimerical) end. However, such a political relationship doesn't look like a political relationship at all. If the system is not oriented towards some goal other than wielding power over one lot of people for the sake of wielding such power, I doubt Greene would want to characterise it as a political relationship – such a relationship, it seems, is one of terror or warfare, and not of politics, on her account of politics.

There is a further potential problem with the strategy of basing one's internalism on the rejection of all standards not triggered by, or present in, the concept of a political relationship itself. It appears to require a moral very thick notion of politics. Both Williams and Greene employ this kind of notion of politics, with some surprising consequences. Politics, for both Williams and Greene, is per definition a good thing, which is sharply contrasted to warfare. As Williams says, "one lot of people terrorizing another lot of people is not per se a political situation: it is, rather, the situation which the existence of the political is in the first place supposed to alleviate (replace)" (2005, p. 5). Further, anarchism, on this understanding of politics, doesn't qualify as a political position at all (Williams 2005, p. 85). A notion of politics which is normatively strong enough to contain within it a plausible theory of legitimacy will be a thicker notion of politics than we are used to. Using such a notion of politics isn't necessarily problematic, but tailoring one's notion of politics in order to derive from it one's desired

theory of legitimacy, and on the basis of this claim that a standard of legitimacy is internal to politics, does seem objectionably question-begging.

Based on these considerations, I do not think that the particular version of internalism which Greene advances – the kind which aims to derive the notion of legitimacy from the notion of a political relationship – holds up.[45] I turn next to the kind of 'internalism' I think Williams advances.

4.5 Williams' internalism

Williams' account of legitimacy presents a different way of understanding what an internalist theory of legitimacy consists of. Williams internalism is based on the idea that the standard of legitimacy should be based on the attitudes and beliefs of subjects to political rule. A 'crude' version of a standard which is internal in this sense will build only on the attitudes and beliefs of those subject to rule. It should be clear from the get-go that such a crude version of internalism is not compatible with Williams' account. Williams doesn't base his theory of legitimacy only on the beliefs and attitudes of those people who are subject to political power. If that were the case, acceptance would be sufficient for legitimacy on his account, which it is not. Williams' critical theory principle, however, is compatible with a more refined internalism, which states that a theory of legitimacy should be built using only principles which are shared by, or could easily become shared by, the subjects to political power in question. I will proceed to show how the critical theory principle, while it might not be a principle shared by all people in all contexts, is nevertheless compatible with a form of internalism.[46]

In *Truth and Truthfulness* (2002), Williams links the idea that the critical theory principle is 'not just another moral principle' with the idea that it rejects all 'external' moral standards. Williams starts off with the following characterisation of the kind of situation the critical theory principle is meant to capture (2002, p. 221):

> "Suppose that of two parties in the society, one is advantaged over the other, in particular with respect to power; and suppose that there is a story which is taken to legitimate this distribution, a story which is at least professed by the advantaged party and is generally accepted by the disadvantaged; and suppose the basic cause of the fact that the disadvantaged accept the story, and hence the system, is the power of the advantaged party: then the fact that they accept the system does not actually legitimate it, and pro tanto the distribution is unjust."

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[45] Greene might, however, be able to defend her theory as internalist on different grounds, perhaps on grounds more similar to Williams. This is an issue I will not address here.
[46] My reading of Williams here owes much to Sagar's (2018).

As Williams notes, however, the principle doesn't work when stated in this way. The mere fact that one more powerful group of people has caused a belief in another doesn't show that belief to be unsound – to draw such a conclusion would be to commit the genetic fallacy. So, Williams proceeds to explain how the critical theory principle can get around the genetic fallacy objection by specifying what it is about the way in which beliefs are caused by the power of the elites which makes such beliefs unsound. Williams' solution, in order to stay clear of applying an external principle of evaluation, is to imagine how a process involving the critical theory principle might develop from the point of view of the people in question. In short, he imagines a disadvantaged group of people asking a series of reflective questions about their situation, which would make them reject the legitimation they had hitherto accepted. The steps are as follows (Williams 2002, p. 227-229):

> "The disadvantaged party initially believe
>> (1) The distribution of powers and advantages in the system is basically just.[47]
> They are then led to reflect that
>> (2) They believe (1) only because members of the more powerful party (call them the instructors) give them appropriate training.
>> (3) It is only if (1) is true that the instructors are in a sound position to claim that (1) is true; the basis for their authority comes from the system itself.
> And, finally
>> (4) There are perfectly good explanations of the instructors' belief in their own authority. This means, granted (3), that there are good explanations of their teaching (1) which do not imply that (1) is true."

Williams acknowledges that the process he imagines is an 'artificial rationalization', but defends it on the grounds that something similar actually does happen on a social scale – often, he thinks, the process is started by influences from the outside (but we can also imagine how they might come from a progressive vanguard on the inside).[48] While it is an 'artificial rationalisation', it doesn't apply principles derived externally to the situation in question, but instead derives the standards of evaluation from resources available (or resources which could become available) in the political situation in question.

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[47] The reference to 'basically just' in the first step could just as well be replaced with 'legitimate' or 'is intelligible as a valid order', since Williams understands this test to be applicable to normative beliefs in general.

[48] On this point, see Sagar (2018, p. 134). Sagar paints a scenario of how women who live in a 'total patriarchy' might come to question their own subjection, without any influence from the outside.

The reason why the critical theory principle is compatible with internalism, then, is that it is based on the idea that there are some justifications of rule which, if the subjects to power came to see their subjection for what it really is, *they themselves* would reject it. This is based on the idea that the principle 'might does not imply right' is a truly universal standard – a standard which is therefore internal to all contexts, as it were. Williams' internalism, in other words, relies on the claim that everyone at all times would reject a justification of power based on an account of successful domination alone.

There are two immediate objections one might have to the kind of internalism I have here attributed to Williams. First, we might ask why, if it's ok to apply this kind of epistemic standard to a political context in order to assess its legitimacy, we shouldn't be able to apply other, equally uncontroversial epistemic standards. Second, it seems like the critical theory principle might rule many kinds of political structures as illegitimate – perhaps, in the end, leaving only those which are liberal, after all. I only have enough space here to briefly sketch a defense of Williams on both these points.

First, Williams is careful to note that his critical theory test cannot deliver any positive truths – it can only establish through a process of critical reflection that a kind of authority which was previously accepted is not justifiable. This difference – between epistemic conditions which say something about what doesn't constitute a good justification but refrains from saying anything positive about what method of belief formation would be reasonable or rational – seems to mark out an important distinction between Williams and those critical theorists (such as Habermas) who he wishes to distance himself from. Williams refrains from claiming that there's another method of belief formation which will establish the truth about justice and similar matters. This suggests we might be able to apply other entirely negative epistemic standards to a political context in keeping with Williams' internalism, but that all such epistemic standards must not be standards about what a good or reasonable way to reach the truth about moral and political matters is.

The second objection speaks to a general problem with the critical theory principle, namely, how and when it should be applied. As Williams acknowledges, there is a general difficulty with the critical theory principle, namely, that of deciding "what counts as having been 'produced by' coercive power in the relevant sense" (2005, p. 6). It seems more and less stringent applications of the theory are possible. Williams is clear that many non-liberal societies in the past have met the test and have been liberal. However, if liberal societies are less likely to engage in systematic domination than alternative forms of rule, liberal societies will be more likely to meet the critical theory principle, and hence satisfy the BLD, than other kinds of societies. Whether this is in fact so, as Sagar (2018, p. 126) notes, appears to require careful historical analysis. But that there is a general difficulty in knowing how to apply the principle, combined

with the fact (*if* it is a fact) that liberal societies may be more likely to satisfy the principle, do not, I think, detract from the plausibility of Williams' internalism.

4.6 The viability of an internalist standard of legitimacy

I have argued that we should understand both Greene and Williams as offering 'internal' standards of legitimacy, but that Williams' internalism appears more promising than Greene's. Where does this leave us with regards to realist standards of legitimacy?

I noted in section 4.3 that there are two reasons to think that internalism shields realists from moralist critique. First, such critique might simply miss the mark, if based on a misunderstanding of what the realist is up to. However, this reason by itself doesn't provide a strong grounds for the rejection of moralist critique – the moralist might simply retort that developing an internal standard of legitimacy is not what matters or what is important. What is important, rather, is whether or not our beliefs about rule – the beliefs on the basis of which we might accept our current system of rule – are justified. The main line of defence for the realist, then, seems based on the idea that developing an internalist theory of legitimacy is valuable or useful, and critique based on external moral principles might be inappropriate or problematic if it undermines the value of a developing an internalist theory of legitimacy. More needs to be said about what kinds of 'external critique' might be incompatible with an internalist theory of legitimacy. For now, I can only point towards others' discussions. Especially relevant is Cozzaglio (forthcoming) who offers a helpful breakdown and analysis of the kinds of external critique which seem to undermine the value of an internalist theory of legitimacy.

There is one further consideration which seems relevant. Note that internalist theories of legitimacy are different from other theories of legitimacy in that they have a two-level structure. First, they have what we might call a 'universal' level. At this level, they offer a criteria of legitimacy which is seemingly universal – legitimacy should be the function of beliefs and values internal to the specific political context at hand. Beneath this level there is the 'contextual level' – this is the level of any specific political context. At the 'universal level', this kind of theory does not attempt to provide an alternative account of the *content* of a theory of legitimacy. This content is only filled in at the 'contextual level'. As soon as we enter into a specific political context, we can say much more about what legitimacy requires – what the salient criteria of legitimacy are, and what kinds of judgements underlie people's acceptance of their political orders. This should be a feature which feels familiar from both Greene's and Williams' views of legitimacy.

It seems right to think that we shouldn't expect an internalist theory of legitimacy to deliver strong normative upshots (Strong, Weak, or Moderate) on the 'universal' level. After all, people in other societies have recognised authority on the basis of beliefs we now recognise as blatantly false or mistaken. Criticising realist theories for failing to necessarily deliver normative upshots of these kinds, at the 'universal level', does appear misguided. However, as soon as we turn to our own political context, and consider what it is that would make us accept our political order, these are the very same considerations, if any, which would make us think that the state has a right to rule, or that it uses coercive force permissibly.

The realist theories of legitimacy that I have been discussing, however, don't say much about the political context that we find ourselves in. Williams mentions only that nowadays, our political context is such that only liberal regimes are acceptable and hence legitimate. This of course, won't satisfy the subject who wants to know whether or not her belief in liberalism holds up – and whether her acceptance of the state is justified. But an internalist theory of legitimacy like Williams' doesn't leave our subject entirely empty-handed. She is given the tools for (one form of) critique of her own subjection. Is her acceptance in the justifiability of liberalism produced by the very same power that it is meant to justify? With the basis of this critique, she might come closer to answering the kinds of questions moralists have been trying to answer all along: Is the state's coercion justified? Do I have a duty to obey its directives?

4.7 Conclusion

In this chapter, I have examined the idea that realists reject 'pre-political' moral standards, and in particular, whether the rejection of such standards can yield an argument against holding realist theories of legitimacy to moralist standards. I distinguished three different senses of what the rejection of 'pre-political' moral standards might amount to, and examined each in turn. In section 4.1, I examined the idea that Williams' theory relies on a 'distinctively political normativity' but concluded that his account gives us no good reasons to think so. In section 4.2, I examined and rejected the possibility that we can distinguish realists from moralists on the basis of a rejection of all non-political moral standards. In the following section (4.3) I presented the idea that a rejection of all 'pre-political' moral notions might instead be understood in terms of the rejection of all moral principles derived from outside the political context at hand. I proceeded to a critical examination of the different ways in which Greene's and Williams theories may be understood as internalist (sections 4.4 and 4.5 respectively) and suggested the internalism of Williams appears more promising than Greene's. I ended the chapter with a brief defence of the idea of an internalist standard of legitimacy, and how this shields realists from some forms of moralist critique.

Conclusion

I have argued that realist theories of legitimacy, while they have important normative upshots, clearly struggle to deliver the kinds of normative upshots we might expect from a theory of legitimacy. We have good reason, however, to reject some forms of moral critique against realist theories. This is because, as I have argued, realist theories of legitimacy are best understood as delivering an 'internalist' standard of legitimacy. Such a standard builds a theory of legitimacy only on the principles, beliefs and attitudes of the subjects internal to the specific political context.

My argument, I hope, will serve to shift our understanding of realist theories of legitimacy. First, I hope to have contributed to the understanding of the value and importance of acceptance and acceptability to political rule in general, and to accounts of realist legitimacy in particular. Further, I hope to have contributed to the debate between realists and moralists by showing that there is a viable way of distinguishing between moralist and realist theories of legitimacy which is not dependent on the idea of a 'distinctively political normativity'. Finally, I hope to have suggested that one promising route forward for understanding and defending realist theories of legitimacy is to understand these as offering an 'internalist' standard of legitimacy.

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