Without Foundations

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INTRODUCTION

How can political theorists justify accounts of how the world ought to be? of what obligations citizens of democratic states have? of whether the state is legitimate? of when disobedience might be permissible? of whether liberal societies should pursue egalitarian policies? of what sort of tolerance is due radicals and terrorists? of what interest the state should take in promoting morality?

These questions are my concern. I should emphasize at once, however, that I have nothing to say on any of the concrete issues, tantalizing though they are. This book is about methodology, about the strategies of justification that political theorists use. The blizzard of arguments on concrete issues can become confusing. We begin to wonder just what sort of enterprise political theory is. What are we doing? How can we justify the views we recommend? Here I deliberately step outside the first-order business of arguing for some political views. My aim is to shed some light on the second-order questions. What might be a viable justification in political theory? Such questions of method are hardly interesting in themselves. With a clearer sense of the issues they raise, though, we can perhaps pursue the intriguing political questions in more perspicuous ways.

Again, my focus is on justification itself. There are plenty of arguments to be found here on legitimacy, obligation, and disobedience; on the rule of law; on free markets and religious toler-
atation. But I dwell on the structure of these arguments, not their content. Talk of justification and methodology is at least a trifle bewildering; we are more at home with issues of substance. Exactly what is justification? Perhaps the best way to begin explaining it is to borrow a vocabulary from a neighboring field. Consider a sketch of the different projects available in moral theory.

A theorist may seek to explicate our shared moral views. Though the identity of the relevant community may be doubtful, and though some views are more widely shared or more firmly held than others, we do find some shared views. Presumably most twentieth-century Americans would agree that torturing innocent people is wrong. We share many such judgments, but we are often at a loss to explain how they cohere. An explication of a moral view is a suggested structure for it, a set of basic principles that yields pretty much the same judgments we do. Given such an explication, we may surmise that we were unconsciously employing that structure all along. But even if we were not, the explication may be a good one.

There is then the business of developing an adequate genealogy for a set of views, an explanatory theory showing why we hold them. Such theories may focus on principles of psychology, arguing that people, constituted as they are, come to hold certain views. Or they may focus on history, investigating the impact of some important development. Doubtless there are mixtures of these, and still other possibilities.

A particularly puzzling field is moral psychology, puzzling perhaps because it investigates so many different questions. Can someone do something just because it is right? How? How is weakness of will possible? Or was Socrates right after all? How are the virtues and vices developed? How do they connect up with deliberation, intention, and purposive action? What relation has morality to guilt, integrity, resentment, and self-consciousness? And so on.

Moral theorists may seek to identify what is special about moral discourse. Certain maneuvers seem appropriate in moral argument ("but that would harm her"), others out of place ("better remember he’s bigger than you are"), even changing the na-
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ture of the argument. Why is that? In more theoretical terms, what rules define the moral language-game? Furthermore, how do moral concepts work? What commitments are built into the language of morality as it stands?

Finally, there is a distinctive part of epistemology and metaphysics devoted to morality. What sort of entity is the good? Is morality subjective, objective, or neither? Is there knowledge of moral truths? How do we arrive at such knowledge? How do we recognize moral error? Such questions these days are generally called metaethical.

Justification is none of these projects. Regardless of what structure our views have, where they came from, or what psychology they connect up with, we want to know if they’re the right views. We justify a set of views to satisfy ourselves that they are. Justification, then, is not only different from genealogy, explication, and the rest; at least at first blush, it seems independent of them. Yet these projects are often run together haphazardly. While there may be systematic connections among them, we must be clear about what given theorists are attempting. Only then will we know what evidence they should be ad-ducing and what counter-evidence we may adduce in turn.

Suppose we are discussing some thorny political question. It could be a more or less concrete question, such as whether the United States should refuse to sell grain to the Soviet Union. It could be some broader policy question, such as whether Medicaid should fund abortions on demand for the poor. It could even be some sweepingly general question, such as whether secular liberal society is a depraved mess, as critics on the right and left have claimed.

We might disagree emphatically on any of these questions. I might balk at your stubborn refusal to recognize manifest good sense, and I might find myself horrified to discover your belief that all the manifest good sense lies on your side of the issue. We might be inclined to disagree, but find ourselves unsure of just what the right position is. We might have no particular inclinations at all. Perhaps each of us has always been puzzled by the case against modernity.
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Regardless of the issue and regardless of our initial attitudes, we are likely to find ourselves seeking intelligent arguments on these matters, for we want more than the fact of agreement. After all, we might be challenged as soon as we left our familiar surroundings. Or we might suspect that, though “everyone” agrees, we happen to agree on the wrong position. Should we hold one view instead of another?

Disagreement and doubt thus create the demand for justification. Unless we are willing to let political debate collapse into posturing and invective, we want to be able to provide reasons for our views, good reasons, terrific reasons if we can. We may even want to prove that our views are correct. We want, in a word, to be able to justify our views.

But how can we justify them? There are no recipes on file for accomplishing the trick, no algorithms, no consultants who will justify any view for a fee: Plato detested the Sophists at least partly for their purporting to do just that. Nor is it clear what sort of argument should count as a justification. Justification, it turns out, is an essentially contestable concept. Must we prove that our view is right? Must we show its deep connections with the fabric of the universe? Can we provide a preponderance of good reasons for it? Will it suffice to show that our considered intuitions yield the view?

There is an especially attractive example of justification, one that has haunted discussion of these matters since Euclid and that has left theorists such as Hobbes enchanted.¹ That example is the geometric proof, an argument commencing from self-evident axioms and proceeding by rigid deduction to its conclusions. The image remains attractive even when we concede that geometry doesn’t really work that way, any more than our em-

¹Aubrey’s Brief Lives, ed. Oliver Lawson Dick (London: Secker and Warburg, 1950), p. 150: “He was 40 yeares old before he looked on Geometry; which happened accidentally. Being in a Gentleman’s Library, Euclid’s Elements lay open, and ’twas the 47 El. libri I. He read the Proposition. By G—, sayd he (he would now and then sweare an emphaticall Oath by way of emphasis) this is impossible! So he reads the Demonstration of it, which referred him back to such a Proposition; which proposition he read. That referred him back to another, which he also read. Et sic deinceps [and so on] that at last he was demonstratively convinced of that trueth. This made him in love with Geometry.”
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Empirical knowledge does. It is difficult to imagine a more compelling justification: one must grant the premises, and, unless one is willing to dispute the laws of logic, one must grant what follows deductively.

Return for a moment to Medicaid and abortion. Suppose I suggest that the poor ought not to be deprived of Medicaid funding for abortion on demand. On being challenged to justify my view, I might offer a syllogism. I might argue that the poor ought not to be denied basic opportunities enjoyed by the rich, that denying the poor funding for abortion does deny them a basic opportunity enjoyed by the rich, and so presto! my view follows deductively.

But the conclusion is no better than its premises. Any view, whether true or false, appealing or outrageous, can be supported by some syllogism. As I may be crestfallen to discover, then, my syllogism settles nothing. Anyone reasonably adept in these matters will instantly challenge my major premise. What is wrong with denying the poor basic opportunities enjoyed by the rich? Now I urge that we ought not to be unjust, and I unveil a new syllogism, one with a more abstract major premise: it is unjust to deny the poor equality of opportunity; denying the poor basic opportunities enjoyed by the rich denies them equality of opportunity; therefore it is unjust to deny the poor basic opportunities enjoyed by the rich. Presumably I need not wait long for another challenge.

How might this argument end? There are several familiar possibilities. First is the infinite regress: it never ends at all. However abstract the major premise, it can be questioned, and a new syllogism can always be yanked out of the hat. Second is a collision with some brute fact: eventually some major premise will be true, but there will be no explanation of why. Other possibilities can be left aside: a loop in the chain of syllogisms, so that the thirty-ninth leads back to the fourteenth, or Nozick's self-subsumption, by which a premise explains itself. The most enticing possibility is that of finding a self-evident major premise.

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Should I find such a premise, I may congratulate myself on having finished the argument decisively. I may believe I have produced a classically geometric justification. No one can deny the premise; no one subscribing to the meager principles of formal logic can quibble with what follows deductively.

There are, though, already some notable differences between a geometric proof and my imagined political argument, for the minor premises of my argument may be controversial. Its concepts may be fuzzy around the edges in politically crucial ways. A conservative might well suggest that denying the poor basic opportunities enjoyed by the rich is not the same as denying them equality of opportunity. She might urge that if the poor have the chance to be rich, if there have been no important legal barriers to their ascending the ladder of income distribution, they do enjoy equality of opportunity. Then we might spar over the relevant understanding of equality of opportunity. Here I want only to note that it will come as no surprise to find such champions of geometry as Hobbes insisting on rigorous definitions.

Now we can abandon Medicaid and abortion. The conception of justification this imagined argument summons up should be clear: one finds axiomatic premises and then deduces the position to be justified. Philosophers have traditionally called this a foundationalist view of justification, and I will adopt their coinage here. But I do not wish to treat the geometric model as the sum and substance of foundationalism. Instead I take it as an especially vivid member of a broader class of arguments. That broader class is what I call foundationalist. One way to characterize its salient features is this: any political justification worthy of the name must be grounded on principles that are (1) undeniable and immune to revision and (2) located outside society and politics. The first proviso allows for alternatives to self-evidence: perhaps no rational agent would deny the principles, or experience would be impossible without them, or we can show that God has promulgated them. The second proviso is deliberately open-ended: the foundationalists I discuss in this volume appeal to unalterable facts of human nature, to language, to theology and principles of rationality, and more.
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This characterization of foundationalism is more suggestive than sharply defined. One might well desire a much crisper account. In what sense must the premises be undeniable? Must they be immune to revision from any and all quarters, or just from some quarters? Language is as thoroughly a social creation as anything else; just what does it mean to say language is outside society and politics? But I will not offer any further abstract account of foundationalism. Indeed I believe the demand for one should be resisted. For many theoretical concepts, definitions are either unavailable or unhelpful; foundationalism is one such concept. Yet definition is not the only way to gain an understanding of a concept. One alternative—a decidedly better one here—is to get a rough sense of what the concept is about and then to examine some instantiations of it. A suggestive characterization is enough to alert us to family resemblances without blinding us to interesting differences among members of the family. Besides, as I will note shortly, foundationalism is in part incurably metaphorical.

In any case, the general idea of a foundational argument is familiar enough to begin. Foundationalism often seems the very model of justification. Only a foundational argument, we want to say, could possibly provide a justification. Indeed there are good reasons for finding such arguments attractive; they have a number of genuine virtues I am happy to concede. Typically they are masterpieces of clarity and rigor. They derive enormous critical power by applying a set of extrapological standards to politics. They move far more briskly and decisively than our everyday political arguments. They boast immutable first principles that would give political theorists a fair claim to the timeless they often seek. If they worked, they would resolve all our doubts and disagreements—even the kind of doubts generated by skeptics, the sort who will question any view, any premise, however sensible it seems.

But they do not work. That is a historical claim: I know of no successful foundationalist argument in political theory, or, for that matter, in any other field. However attractive it may seem, then, foundationalism is the view I mean to attack. I have no air-tight metatheoretical case to offer, no way of showing that found-
dational arguments are doomed to fail; the issues at stake are forbiddingly abstruse. I can suggest immediately, though, that if Plato, Hobbes, Kant, Sidgwick, and countless brilliant others all failed, the reasonable hypothesis is that they were trying to square a circle. In the course of the discussion I will offer some other observations on the flaws of foundationalism.

Since we learn more by doggedly sticking with concrete contexts, though, I examine some actual political theories—those of Hobbes, Locke, some classical and contemporary utilitarians, and finally Hume and Smith. These writers are not quite liberals one and all, but they are a representative collection of the varied facets of the liberal tradition. And I will have much that is critical to say about their theories. Let me then again emphasize the methodological focus of this study. The study is not another exercise in liberal-bashing, now and then a fashionable sport. Nor for that matter does my qualified endorsement of Hume and Smith comprise an endorsement of liberalism. Lest my concern with justification vanish as I work through the theories, I offer here an overview of what I will say.

The chapter on Hobbes might be situated squarely in the literature on the obligation controversy. There, however, the attempt often seems to be to compile a dictionary entry under “Hobbes, obligation in.” We find Oakeshott, for example, carefully distinguishing what he takes to be genuine obligations from pretender candidates in Hobbes.3 I wish here to redefine the question a bit and pursue an explanatory puzzle: given his skeptical views on evaluative discourse, how can Hobbes draw so freely on the moral concepts? Neither of the major readings worked out in the literature—that Hobbes’s argument is purely prudential, or that it includes moral considerations stemming from God—seems satisfactory. I argue that Hobbes tries to develop, side by side with his prudential argument, a wholly secular moral argument. He wants to show that his conclusions are built into the moral and political concepts. But the substantial questions of morals and politics can hardly be settled by defini-

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tional maneuvers, however skilfully executed. Nor does the pru-
dential argument, while promising, suffice to justify its conclu-
sions. I argue that the generality of the argument, its ahistorical
appearance, vitiates it. I argue too that Hobbes's appeals to ne-
cessity have no force.

The chapter on Locke falls into three parts. First I turn my at-
tention to the _Second Treatise_, which seems to me best understood
as three independent social-contract arguments conducted to-
gether. The text of course is not so clear: the three-contract read-
ing is idealized, a rational reconstruction rather than mere repeti-
tion. I offer it neither to recapture Locke's inchoate thoughts nor
to outline his "teaching," but rather to impose order on the text
without mangling it. Locke's three uses of the social contract
leave him with a historical case against Filmer, a theory of politi-
cal obligation hanging on consent, and a theory of legitimacy
hanging on the hypothetical choices of rational agents. Nowhere
in the _Treatises_, however, does Locke try to explain the force of
appealing to consent or rational choice. Second, then, I survey
his other writings for a theory that will do the necessary work.
Again with a bit of idealizing, I find a striking moral theory cen-
tering on God and pleasure. Rational agents, Locke holds, will
maximize their pleasure by responding to the allure of heaven
and the threat of hell. They will live the moral life God demands
of us. Third, I ask whether the moral theory, even if it did work,
would prop up the political theory. I conclude it would not.

I treat utilitarianism as one doctrine. While there are of course
differences among the theories of Bentham, Mill, Sidgwick,
Harsanyi, Hare, and Brandt, differences to which I pay some at-
tention, the similarities warrant grouping them together. It
might seem that this chapter has little to do with political theory,
since it neglects politics. Quite simply, I wish to suggest that
utilitarianism has nothing to do with politics or morality or any-
thing else in the world. The utilitarian calculus is radically in-
complete. I do not mean that it diverges from our convictions
about fairness or justice. Since explication is different from justi-
fication, a utilitarian can dismiss such convictions as misguided.
(The literature arguing that utilitarianism doesn't match our
"moral intuitions" thus seems irrelevant or at least not decisive.)
I argue that utilitarianism has zany implications, but only to emphasize that accepting it would be far more than systematizing what Sidgwick calls the morality of common sense. I mean rather that utilitarianism, for all its vaunted rigor and precision, fails to set out a procedure for making choices. Handed a utilitarian handbook and all the desired information about possible worlds and mental states, a dedicated genius would find that the handbook lacked sufficient instructions to make recommendations. Should that be so, the literature on utilitarianism would take on a comic tone. For the debate over whether we should make utilitarian choices would have to collapse into a debate over what a utilitarian choice would be. Nor, as I argue, do utilitarians give us any reason to adopt their standard.

I argue, then, that Hobbes, Locke, and the utilitarians fail to justify their conclusions. I do so not because I love to shred theories, but because I want to clear the ground for a different way of conceiving justification. For all the differences in their theories, Hobbes, Locke, and the utilitarians try to justify their conclusions by digging into increasingly remote and abstract terrain. Hobbes may turn to language, Locke to divine command, and the utilitarians to the principle of utility, but in each case the motivation is the same: to try to find foundations that will support their conclusions. It is possible that they fail just because they don’t find the right foundation, but I wish instead to suggest that there is something strange about the quest for foundations.

So I turn to the theories of Hume, not properly a utilitarian at all, and Smith. Their theories have no foundations, and that is why they succeed as much as they do. Neither man’s works are canonized in the traditional line of classics of political theory. Today Hume is a philosopher first and foremost and, with grumbling concessions, a historian on the side; Smith is an economist, an analyst of the market, and secondarily the author of a minor work in ethics. Both writers do argue about politics, however, and the strategy of justification they employ seems appealing. Briefly, they justify an institution by showing that it is better than the available alternatives. I call this approach contextual justification. A political theory of this sort, instead of fleeing the profane world of facts into the sacred realm of value, will neces-
sarily bring in historical considerations, sometimes extensively. It will draw on our moral and political beliefs to help rank what is better, but it will force them to collide with history and society, and so will criticize them. It will also have to rely on social theory to buttress its claims about counterfactual worlds. Finally, Hume and Smith will be unable to offer a timeless teaching, a set of political principles supposed to hold transhistorically. These points may seem to militate against taking their approach as a model. Yet that, I wish to urge, is just how we should take it.

There is a touch of irony in nominating Hume as a model in these matters. For the problem of justification, as it is often cast, is inextricably bound up with the celebrated is/ought gap bequeathed by Hume:

I cannot forbear adding to these reasonings an observation, which may, perhaps, be found of some importance. In every system of morality, which I have hitherto met with, I have always remark'd, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or *ought not*. This change is imperceptible; but is, however, of the last consequence. For as this *ought*, or *ought not*, expresses some new relation or affirmation, 'tis necessary that it shou'd be observ'd and explain'd; and at the same time that a reason should be given, for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it.¹

Worries about the is/ought gap have made justifying a prescriptive view seem perfectly intractable, our options unutterably bleak. If our grounding principles lie in the realm of fact, how can we ever cross over into the realm of value? But how can we find normative grounding principles with the right sort of solidity? Some philosophers have sought to show that Hume was

ironic or simply mistaken, that there are valid deductive arguments from is to ought, fact to value. I will take a different tack. For what it’s worth, I think that Hume did hold that we cannot deduce ought from is and that he was right to say so. In the quoted paragraph Hume even provides a shrewd hint on how to demolish arguments that purport to do so. But when it comes to justifying a political theory, the is/ought gap is irrelevant—provided we scrap the foundationalist program. I return to these matters in the conclusion, where I will be better equipped to discuss them.

For now, I can simply summarize the strategy of the book. I mean to criticize foundationalism by examining Hobbes, Locke, and utilitarianism, and to defend contextualism by examining Hume and Smith. That strategy, of course, is excessively neat and tidy, and will provoke doubts. Perhaps I can avert needless criticism by emphasizing two aims I am not pursuing in this book, and by saying a bit about the point of what I am pursuing.

First, I develop no account in intellectual history of why foundationalism seemed attractive to these writers. No doubt there is a complicated and interesting tale of the quest for certainty to be spun here, partly a sweeping story about the basic dynamic of Western philosophy, partly a more fine-grained sketch of the impact of modern science, partly the normal congeries of far-flung events combining in quirky ways, partly the tactical exigencies of the moment. But I don’t even begin to spin that tale. Accordingly, I am in no position to blame my foundationalists for not arguing differently, and in any event I do not wish to do so. Instead, my argument is directed to today’s debates. I want to suggest that we ought not to emulate their foundationalism.

Second, casting one set of authors as foundationalists and another as contextualists is in fact partial or one-sided. I readily concede that one can find extraordinarily shrewd contextual arguments in my foundationalists. Hobbes, for example, explores the devastating effects of the ethics of honor and glory. He can easily be read as defending the “bourgeois” life by showing itspreferability to the life of nobles savaging each other and religious fanatics running amok. But those arguments are not the center of his political theory. My interpretations bring out what
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I take to be essential in each theory as far as justification goes. While I do, for example, discuss the foundational elements in Hume and Smith, I do not dwell on them. Provided no undue distortion is introduced, such selective emphasis is after all what interpretation is about. We want more than a simple rehearsal of everything the author said, lest we end up in the dubious position of Borges and Bioy-Casares’s critic, who set out to write the definitive work on the Divine Comedy and ended by reproducing it in its entirety.¹

Finally, why attack foundationalism now? Haven’t Quine and his followers effectively demolished the claim that knowledge needs foundations? Haven’t political theorists long ago stopped searching for foundations? Three points are worth making.

First, foundationalism, in all its purity, still regularly appears in moral and political theory. To take just one example, Robert Nozick’s search for “the truth about ethics and political philosophy” leads him to seek the “Foundations of Ethics.”² Foundationalism seems to occupy some otherwise empty theoretical space; it is like a research program remarkably impervious to criticism. If nothing else, we want to understand what is distinctive about it and see why it so regularly resurfaces in the literature.

Second, this book is not an exercise in skepticism for its own sake. There are two constructive goals to my criticism. Probing a theory, instead of “barely comprehending what is affirmed or denied in each proposition,” is in fact the best way to understand it.³ The point holds whether we are exploring a theory of justification or a given political theory. I am then critical, sometimes tenaciously so, of the theories I examine. The second point is true perhaps of most skeptical rhetoric. I want to clear the ground in order to make room for a less prominent view. Criti-

¹Jorge Luis Borges and Adolfo Bioy-Casares, Chronicles of Bustos Domecq, trans. Norman Thomas di Giovanni (New York: Dutton, 1976), pp. 43–44. This volume, a barbed exploration of creativity, plagiarism, and criticism, is not without theoretical interest.


cizing foundationalism is an effective way to illuminate the merits of contextual arguments, merits I believe are insufficiently appreciated.

Third, we can think of foundationalism as an ideal type. Different enterprises in political theory may be more or less foundationalist; the ideal type can sensitize us to the structure of these enterprises and the problems they face. Generally, the logic of ideal types in historical studies also serves well in the history of political thought. Studies of concrete instances unguided by theoretical concerns are unsatisfactory; so are meandering theoretical ruminations not grounded in any concrete instances. The two must be combined. We want to shuttle back and forth, refining the theory with findings from the cases, deepening our grasp of the cases with a theoretically informed agenda. This approach provides a way of linking the history of political thought to our own theoretical concerns, without subscribing to the view that one reads the classics because they might be simply true. Here, I intend my argument about justification to illuminate the political theories I discuss, and I intend the chapters to lend support to the general argument.

Still, foundationalism is an odd ideal type. Instead of being a rigorously structured concept, it is an elusive metaphor. Theories are not buildings. Theories without undeniable first premises do not hover mysteriously in thin air; nor do they inevitably plummet to crashing defeat. But playing with imagery will not do; nor will sticking with metatheoretical considerations. I have taken Locke's complaint to heart: "Unmaskers, when they turn disputants, think it the best way to talk at large, and charge home in generals: but do not often find it convenient to quote pages, set down work, and come to particulars." So I do quote pages, set down work, and come to particulars, as precisely as I can, in the chapters that follow.

*John Locke, A Second Vindication of the Reasonableness of Christianity, in Works VII:211.*