

AN ANALYSIS OF THE STATE

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AN ANALYSIS OF THE STATE

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ABSTRACT

What the state is remains far from clear in political philosophy. However, the state is also a key concept at work in many discussions in political philosophy. For example, there is a debate about anarchism, the question of whether or not the state is legitimate in some way. However, if we are unclear about what the state is, then we cannot be clear about what the position of anarchism amounts to.

To this end, I have attempted to find some necessary features of statehood. I have done this by considering two debates in political philosophy that concern the state. The first is the already mentioned issue of anarchism. The second is the issue of state sovereignty in international relations. The worry in this second debate is about the interference by some states with the affairs of other states. The guiding question for the dissertation has been: What features are required for the debates in question to make sense? If a debate requires a feature, then that feature is necessary for statehood.

The central feature for statehood which has emerged concerns control. Basically, a state is an organization that controls the lives of its citizens in some way. Usually, this minimally means that a state says when citizens can and cannot use force and that this control is ensured through the use of forcible coercion. Any other features that we may be able to point to as necessary will be necessary only to ensure that states do control the lives of their citizens in some way.

Chapter One: The Question

I. The Question

What is a state? Political philosophy can be defined partially by reference to the state as its primary subject of inquiry. Furthermore, to some degree, all that is needed in discussions in political philosophy is a mention of the state and all know what we are talking about, on some intuitive level. However, upon further examination, it is not clear what the *state* is. For example, must a state be moral? Further, does the state need to control a geographical region? Must it be arranged in a particular way? Must others recognize it as a state? Philosophers, political scientists and sociologists, among others, have put forth various necessary or sufficient conditions of being a state, answering both “yes” and “no” to these questions, among possible other. Yet, the state has only rarely been subject to a detailed and substantial analysis. Thus, the current project is to undertake a significant *part* of such an analysis. I seek to clarify the notion of the state with specific reference to two debates in political philosophy: anarchism and state sovereignty in international relations.

I will begin with a few brief comments as to why this is an important question in political philosophy. Following these comments will be very brief descriptions of some answers to the question of what features a state has. For the purposes of the present chapter each of these features should be taken as necessary, at least while being discussed. Following these descriptions I will discuss methodology for the dissertation. Finally, I will more fully motivate why I have chosen the two selected debates and give a

short description of each issue. This chapter will *not* be concerned with critically analyzing any of the features introduced here, nor with drawing conclusions about what features must be included to make sense of the debates. Greater detail on these two fronts will be provided in later chapters.

It is important to clarify the concept of the state because of its prevalence in much of political philosophy, as well as other disciplines. If such a key concept turns out to be unclear, then how can we be clear in the debates where the state features prominently? Take the two debates already mentioned as an example. Anarchism is the view that no *state* (or very few states) is (are) just, or that no *state* (or very few states) has (have) political authority. Thus, the anarchist is working on the state primarily as it relates to the supposed citizens of the state. The international relations theorist, on the other hand, is more concerned with relations of the state that are external. What actions are permissible regarding other states? Suppose that it turned out that the state was something different for the anarchist than for the international relations theorist. Even worse, suppose that their views on the state were simply inconsistent. At best, they are discussing the same type of group; until an analysis is undertaken, we do not know if this best-case scenario holds or if it is a scenario where they are talking past one another or are discussing inconsistent views.

Until we are clear about what the state is, we cannot claim clarity regarding the debates concerning the state. For some debates about the state, some or all of the differences in the conceptions of the state may not matter. For others, however, the differences may be crucial. To completely clarify what states are would require an

analysis that goes far beyond the current project. Here we will seek only to find some *necessary* conditions for statehood.

Anarchism and state sovereignty in international relations can be looked at as the same issue applied to different groups. One way of thinking about anarchism is as a question of sovereignty applied to the citizens of the state; additionally, one way of looking at the question of state sovereignty in international relations is as a question of sovereignty applied to those *external* to the state. Both debates concern sovereignty, one applied internally and one externally.¹ Given the closeness of these two issues, this is an ideal good place to begin when comparing the features of a state that are necessary to make sense of the issues. Thus, the question that is central for the current project is: what features are required for these two debates, anarchism and state sovereignty in international relations, to make sense? Alternatively, what is it about states that animate philosophers working within these debates?

With the question for the current project thus far described, an obvious question at this point is: what features have been suggested as necessary features of the state? Thus, let us turn to some features that have been assumed by various authors and scholars.

II. The Usual Suspects

Below, is presented a list of the usually assumed features of the states. I will begin with features typically assumed and as such are uncontroversial. This is not to imply that the features discussed first will all be necessary for the debates when discussed in later

¹ Christopher Morris notes this distinction regarding sovereignty in his discussion of the subject, though he does not apply it in precisely this way. See his *An Essay on the Modern State*, ch. 7.

chapters. Again, I am not being critical of the features described in this chapter. After briefly describing these less controversial features, I will then move on to more contestable ones, though there is not a clear order in the literature from less to more contestable features of the state; the order will be then, to some extent, arbitrary. Complete descriptions will not be given here; I seek merely to give a basic picture of what each of the below features is. Each feature will be discussed further in later chapters.

We should also be mindful that each of the following proposed features is *not* usually claimed as a *sufficient* condition for statehood. They are all best viewed as possible *necessary* conditions (with some exceptions). I have arranged the proposed features into sets, based on the type of feature that a particular feature is. For example, all of the moral features are grouped and described together under the heading of “Moral Features.” Briefly, I will introduce each set before describing each feature that set.

A. Features Concerning Control

The first set of features I will introduce is features concerning the use of force. In the order I will introduce them, the second feature is more controversial than the first. They also proceed from a feature that *may* be easy for a state to possess, to a more difficult to possess feature.

A Coercive Institution

It is often claimed that a state is a *coercive organization*. This simply means that a state is an organization that uses force, or the threat of force, to exact compliance with certain

dictates. For example, if a state simply existed to provide electricity, then an area where it might use force or the threat of force is in the exacting of payment for that service.

This is a very minimal requirement. That is, it is not that the state *must* be the *only* coercive organization in the geographical area. The state *may* be one among many. Consider the example just given of a state being an electricity provider. We can easily imagine such a state existing alongside other utility providers, all of whom are coercive organizations in the way just described.

The Monopoly of Force

It is often claimed that a state must have a *monopoly of force* within a given geographical region. This is a standard default analysis of the state. A state, it is claimed, must be an organization that monopolizes the rules that control the use of force within a given territory. I will refer to this definition as simply a state having “a monopoly of force.” This is an idea that is usually credited to Max Weber. He describes it thus: “[W]e have to say that a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* [emphasis his] within a given territory. . . the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it.”² It is not that a state is the only entity that can use force. The state merely controls the rules that govern all use of force. Thus, an entity monopolizing the use of force might tell me that I may only practice self-defense in particular

² Max Weber, “Politics as a Vocation,” *From Max Weber: Essays in Sociology*, H. H. Gerth and C. Wright Mills trans. and eds., Oxford University Press, 1946, p78.

circumstances (e.g., when, by some reasonable standard, I determine my life to be in danger).

Notice that in the description from Weber he appeals to a “monopoly on the *legitimate* use of force.” This has the appearance of making a moral claim. However, it need not be read as implying any moral claim (nor do I think that Weber intended it to have any moral component).³ It is not that a state has a *legitimate monopoly of force*, in the sense that it is a *just* monopoly of force. If we call the rules that control the use of force “norms,” in the non-moral, yet still normative sense (e.g., social norms), then it will help to clarify things. In this terminology, the state has sole control over the norms regarding the use of force. The state need not view these norms as moral. In fact, a force monopolizer may enforce norms that specifically prohibit what are standardly considered moral actions. For example, a state may prosecute anyone that uses force other than government officials, even in cases of clear self-defense. Thus, the claim by Weber need not have a connection to morality. The inclusion of the term ‘legitimate’ is not meant to imply any moral component, but simply that the state views its rules concerning force to be the only ones that are allowed. The use of force within the state is permitted by the state when it is in accord with the state’s rules, moral or not.

Notice that these two features are very different. Typically having a monopoly on the use of force is taken to presuppose that the organization with the monopoly is coercive. However, an organization can be coercive without having a monopoly on the rules that control the use of force, as in the electricity example offered above.

Furthermore, an organization may claim a monopoly on the rules controlling the use of

³ I will discuss possible moral features of the state below.

force without using coercion to enforce such rules. This may simply point to the need to further explain these two features for the purpose of determining how they are related, but for the current purposes, it is clear that these two are distinct.

This concludes the features that concern the use of force.

B. Physical Features

The current family of features is physical features. The first two features discussed (geographical region and size) are uncontroversial and have actually been assumed in much of what has already been said.

Geographical Region

It is often claimed that a state must occupy a *geographic area*.⁴ However similar to a state some other organization appears, it is not a state if it is not somehow linked to a geographical area, and one that is relatively well defined (though the boundaries may be vague). Including such a requirement allows us to rule out corporations as being states. Corporations are active in many places, yet tied to none, beyond a possible home base (which can easily be relocated). At least one way of interpreting this requirement is the idea that states have borders (something that corporations do not have).

⁴ See, for example, Peter Vallentyne's "Libertarianism and the State," *Social Philosophy and Policy*, 24 (2007). There Vallentyne gives a rough definition of the state as follows: "A *state* [emphasis his] is a rule-of-law-based coercive organization that, *for a given territory* [emphasis mine], effectively rules all individuals in it and claims a monopoly on the use of force." p3.

Size

A second trait that is typically taken to be a feature of a state is that states must have more than simply a small number of people. Just how many people does a group require for being a state? This is vague. It seems easy to think of a state as being comprised of an extended clan, where everyone is distantly related, though relatively small in number. Christopher Morris writes as if this is a quality that distinguishes Greek City-States from modern states, “A small size was necessary if the *polis* was to remain self-governing.”⁵ Notice, the issue of size here is tied to a further feature that was desired by the *polis*. The way to maintain this feature was to limit the size of the *polis*. Modern states really have no such limits (beyond the fact that there does not remain much land to claim).⁶

Continuous in Space and Time

It is sometimes claimed that, for an organization to qualify for as a state, it must be *continuous in space and time*. This means that if a state ceases to be for a short time, say under the yoke of occupation, then even after re-formation it will not be the *same* state. The reference to space is a requirement, primarily, that states hold sway over certain geographical territories, with allowances for changes to that territory (e.g., the growing of the United States to stretch across North America). This also means that a state cannot

⁵ Morris, p28.

⁶ Yale Ferguson and Richard Mansbach report anecdotal claims that when Liechtenstein entered the Council of Europe in 1978, there was opposition because of Liechtenstein’s size. It was referred to as a “microstate.” The worry was apparently that if the Council of Europe let in one microstate, they would have to let them all in. Yale Ferguson and Richard Mansbach, *The State, Conceptual Chaos, and the Future of International Relations Theory*, University of Denver Press, 1989, p28. In this same paragraph they report one official as worried that if Liechtenstein is admitted, the organization may be straddled with the task of deciding what states are. The following website lists the population of Liechtenstein’s in 1978 at roughly 25,300, <http://www.populstat.info/Europe/liechtsc.htm>.

completely pick up and move to another geographical location. In this way, states are different from baseballs. States are linked to territory in a way that baseballs are not.

Suppose that all the members of a state look at another part of the world that is uninhabited and that they find more appealing than their own current surroundings. Suppose further that they are not greedy and have no desire to simply add the new area to what they already have. They decide to disband the state, move and then reform a state, with the same leaders, legal apparatus, and all other relevant features. The fact that there is a break in time and a complete change in geographic location makes it such that the reformation in the new place is a different state than the original, assuming the present requirement. Thus, this is different from the simple claim of being bound by a geographical region; it is a claim that the state is bound to the *same* geographical region as in the past (though it may also have grown).⁷

This concludes the descriptive features.

C. Institutional Features

The following set of features is composed of features that apply to some kind of organization within the state regarding its officials and policy makers or to the types of actions that state officials should take. Above I discussed the idea that a state must be a certain size. The current features go beyond this and claim that the group must be arranged in a certain way. This moves the state beyond being simply a *group* of an indeterminate size and onto the claim that a state must be an *organization* of some sort.

⁷ This feature is an attempt to answer a larger question in philosophy, the question of identity over time. Anything that can be said about what makes a group the same over time may be applicable here. The state has no special status that protects it from such worries.

A Governmental Apparatus

It is often claimed that a state must have a *governmental apparatus* of some sort. There are many different ways to form a government and presumably none would be ruled out in principle. As an example, we might say that a state must, minimally, have an executive branch, a legislative branch and a judicial branch.⁸ These should be understood broadly and not necessarily to mean that the branches exist separately. A small state, for example, could have a benevolent dictator that embodied all three of these branches.

Functional Goals

It is often claimed that the state must perform certain *functional goals* in society. Call this the functionalist account of the state. The idea is simply that an organization is a state only if it performs certain functions, regardless of how these functions are carried out. There are numerous candidates for inclusion as the functional goal that must be satisfied. At the broadest level we may identify a single purpose to which a state attends. For example, we may say that a state exists to provide basic goods (e.g., nutrition), or simply to define markets and contracts (e.g., serving as an arbiter between competing contracts).

This is to be carefully distinguished from a view called “trait-theory.” Trait-theory is a more specific version of this requirement, one that requires the state to have specific offices, specific governmental apparatus. The concern above was with certain bureaucratic offices. This is perhaps best viewed as a combination of the functionalist

⁸ See, for example, John Locke’s *Second Treatise on Government*, chapters 10-13.

view with the governmental apparatus view.⁹ For example, X is a state only if X has a Department of Education. The “Departments” that would be needed are those that would be required for whatever functional goals the state is supposed to achieve. In a more strict sense, a trait theorist may simply require that a state have specific offices.

This concludes the discussion on the institutional features.

D. Doxastic Features

The following set contains two features that are best described as doxastic features. They are features that others, both citizens and non-citizens must believe are had by the state, regardless of whether or not they actually are had by the state.

Internal Acceptance and External Recognition of Legitimacy

It is often claimed that, for an organization to be a state, it must be internally accepted as legitimate and externally recognized as legitimate. Before more carefully explaining this requirement, allow me a moment to qualify the language that I will use. The word ‘recognize’ is a success verb. To recognize that Canada is a state entails that it is a state. For this reason, I will use the word ‘accept.’ This avoids the entailment that what is accepted as a state, is in fact a state. I will close this feature with talk of perceptions. I do not intend this as a success verb whereby the perception that P entails that P.

This feature holds that the citizens of a state must accept the state as being legitimate; where this should be understood as the citizens accepting that the state has

⁹ Patrick Dunleavy briefly discusses such a view of the state in “The State,” *A Companion to Contemporary Political Philosophy*, Robert Goodin and Philip Pettit, eds., Blackwell Publishing, 1993, p612.

political authority (the state's citizens have, at least, a weak *pro tanto* reason to obey the dictates of the state). This is an admittedly vague notion at this point. What exactly is required for such an acceptance is also vague and probably differs among populations. At a minimum, we can read this as a requirement that the internal population, at least to a large degree, is not in rebellion against the state. Take the French Revolution as an example. There a large portion of the populous, at least in the key city of Paris, revolted against the state, and hence it ceased to be a state, assuming the present characteristic.¹⁰

Further, external forces, those external forces primarily being other states, must accept the state as a state. This is primarily acceptance of sovereignty and jurisdiction over affairs inside the border of the state (in the terminology above, other states accept the state's claim of political authority over those within the state's borders). For example, if no one outside of Canada accepted Canada as a state, then on this aspect of the requirement, Canada would not be a state. Minimally, this must mean that others accept the state's right to control the use of force within its own boundaries.

An alternative way of interpreting this feature is the claim that others accept that the actions of the state are not subject to forcible interference by others. This is what I will call "moral unassailability" below. This will apply on the part of both citizens and other states.

Notice that concerns of legitimacy, political authority, and moral unassailability are usually moral concerns. However, here what matters are the *views* of the citizens of the state and those outside the state (hence the name, "doxastic features"). There is no

¹⁰ We could also maintain this feature as being met in the French Revolution and claim that the revolution was against the government, not the state.

claim to actually possess the quality of legitimacy, only that others *perceive* the state as being legitimate (again, whether or not it actually is or not, or even whether or not it even has the quality of being a state). Thus, this is not a moral requirement. I will introduce three moral requirements below, after one last doxastic feature.

Strong Claims to Be Advancing the Common Good

It is often claimed that a state must make a *claim to be advancing the common good* of its citizens. This is perhaps best understood as a requirement that the state be making some claim that justifies its existence. If the state claimed to be keeping people at the same level of well being that its citizens would enjoy without the state, then it would be difficult to justify the state's existence. Thus, the state must be making a strong claim to be improving the well being of its citizens. Exactly what aspect of the common good that the state claims to be advancing is open to interpretation. Two quick examples may be broad functional goals such as defining market transactions (allowing for a secure market) or ensuring that certain basic goods are provided (e.g., basic nutrition).¹¹

This concludes the discussion of doxastic features. I will now discuss the final set of features, moral features.

¹¹ One could conclude that this is a feature that is endorsed by John Locke. In the *Second Treatise* he says repeatedly that the primary purpose of civil society is the preservation of property. We can interpret this a number of ways. First, we could take it to mean that this is the functional goal of civil society. Second, we can take this to be an advancing of the common good.

E. Moral Features

The final set of features that I will discuss is moral features. These may be controversial as necessary requirements of the state. Often the discussions surrounding the state are over whether or not a particular state has the feature, presupposing that the entity in question is a state, before examining it for moral features. Nevertheless, we should not automatically reject such features as being necessary for the state.

Sufficiently Just

It is sometimes claimed that a state must be sufficiently *just in its laws and actions*.¹²

Suppose that the death penalty is a morally impermissible use of force. Any organization that significantly utilizes the death penalty could not then be a state (perhaps requiring only one use of such a punishment, provided that it is an unjust enough punishment).

This feature need not be understood as being absolute. It could be that the requirement is some threshold level below perfectly just. The best example of violating this feature is Nazi Germany. Nazi Germany was horribly unjust; thus, on the current feature Nazi Germany was not a state.

¹² The claim that a state must be just is really a historical position, that is, the reader would be hard pressed to find it endorsed in the contemporary literature. It is a corollary to the Natural Law position in the philosophy of law. Historically this feature would be endorsed, at least, by both Cicero and Aquinas. The arguments are complicated, so I will not try to explain them here. However, given what has just been said about state actions, it follows that if the Natural Law position is correct—which entails that the only true laws are moral—then, the state must either be just or take no actions. A recent application of Natural Law Theory in the philosophy of law can be found in King’s “Letter from a Birmingham Jail.” There King writes, “An unjust law is no law at all.” For a good discussion of Cicero’s view, see Elizabeth Asmis’s “The State as Partnership: Cicero’s Definition of *Res Publica* in His Work On the State,” *History of Political Thought*, vol. 25, 4, 2004, 569-598. There is also a brief discussion of Cicero’s view in Alexander Passerin d’Entreves’s *The Notion of the State*.

Political Authority

It is sometimes claimed that to be a state an organization must have *political authority*, i.e., its citizens have a moral duty to obey the state.¹³ For example, suppose that an organization imposes a tax structure on its citizens. If its citizens have no *pro tanto* moral duty to obey the state, then the organization is not a state, according to this claim. Notice this is a *moral* duty that the state forces upon its citizens, not simply a prudential or some other reason to obey a state's dictates. For example, it may be that we all have a moral obligation to refrain from murder, regardless of the state's dictates. If the state then ordered us to refrain from murder, and it has political authority, then we would have an *additional* reason to refrain from murder, or, we may say that in addition to whomever we previously owed our duty to refrain from murder, we now also owe such a duty to the state. Both the original moral reason and the state's command may be sufficient to make it wrong to murder, thus, in the case where both conditions hold, it may simply be over-determined that it is wrong to murder. The point here is that for the state to have political authority over us, its commands must provide an *additional* source of duty for us to engage in or refrain from certain actions.

Moral Unassailability

It is often claimed that states must be morally unassailable. This feature is often referred to as legitimacy. I am calling it moral unassailability because 'legitimacy' does not have

¹³ This is the most frequently discussed moral feature in political philosophy. Though his position is confused, Robert Wolff seems to endorse this as necessary for statehood in *In Defense of Anarchism*. For other good discussions see Nozick's *Anarchy, State and Utopia*, and Simmon's *Moral Principles and Political Obligations*.

a single usage. One of the uses for ‘legitimacy’ is: if a state is legitimate, others are not permitted to forcibly interfere with the state’s actions.¹⁴ It is this feature, where others are not permitted to forcibly interfere with the state’s actions, that I am calling *moral unassailability*.¹⁵ For example, if a state is morally unassailable, then no one may interfere with the state’s action to imprison political dissidents, or any other action performed by the state. Furthermore, this is the feature being appealed to when a state claims to be a “sovereign state.”

If one thinks of states being just to a certain threshold as being such that others are not permitted to forcibly interfere, then this feature will appear to be the same feature as being sufficiently just, discussed above. While this may be one way to link the two features, they are distinct. The claim that a state must be sufficiently just is a constraint on the actions of the state. The feature of moral unassailability is a restriction on the actions of others.

With the above features being introduced and explained to a basic level, I will now move on to the two final sections of this chapter, methodology and a further introduction of the debates to be utilized in later chapters.

III. Methodology

Thus far I have suggested various possible features of the state, some more or less plausible than others, some more or less controversial than others. I have not gone into

¹⁴ We will see below that “legitimate” can actually be used to refer to any of our three moral features.

¹⁵ This feature is not specifically endorsed in the philosophical literature over states, though there are places where we might find it endorsed. The best place to find this feature is in a state’s defense of its actions when criticized by others. That is, it is being invoked whenever a state tells other states that it is a “sovereign state.”

great depth over these features. As we move through the remaining chapters I will go into greater detail regarding each of these features as they apply to two particular debates in political philosophy regarding the state, anarchy and state sovereignty in international relations. I will more fully introduce these debates shortly, but first I would like to say more about how we will proceed.

Concerns regarding the state generally focus on one of three concerns: justice, political authority, and moral unassailability. Each of these concerns can be explored through different debates. Within each chapter I will look at both concerns internal to the state, i.e., anarchism, and concerns external to the state, i.e., state sovereignty in international relations. The goal in each chapter will be to specify the features that are necessary for a particular debate. If a particular feature is necessary for a debate regarding the state, then it is a necessary feature of the state. This may strike some as being less than obvious. Why does the necessity of a particular feature within a particular debate entail that that feature is necessary for statehood? This is a good question. The answer is that, because these are debates about *states*, then the features that are required by the things we are talking about in these debates will be necessary features of *states*. If these features were not necessary for statehood, then these debates would not be about states, but simply organizations of some kind. This would also entail that, because these debates take place within political philosophy, that political philosophy is not about states at all, but something else.

To be clear, consider the following, if the anarchism debate requires feature X to make sense, then feature X will be a necessary feature of the state. If feature Y is then required for the debate in international relations to make sense, then feature Y will also

be a necessary feature of the state. Assuming that X and Y are consistent, then features X and Y will both be necessary features of the state, speaking broadly. This is so, even if the separate debates do not comment on the feature required by the other debate. Thus, anarchism may have nothing to say about feature Y, and state sovereignty in international relations may have nothing to say about feature X. Notice also that there may be other features that are required for an organization to be a state; features X and Y may not be sufficient for statehood.

We should be careful to note that there may not be a consistent set of features drawn from all debates. If there is a consistent set of features across all debates regarding the state, then there would be a set of necessary features for the state; this would allow us to speak of the state “broadly construed.” If it turns out that there are inconsistencies across such a broadly viewed set, the result would be that we cannot make any references to the state generally, but must write of “states as understood in the anarchism debate, or the international relations debate, etc.” We should not be too quick to conclude that either of these options is correct. My initial prediction is that there will be a consistent set of features, and hence all necessary, between the two debates to be looked at in later chapters. However, even if this turns out to be true, there are many other debates concerning the state and each of them would need to be explored to determine what features are necessary for those debates to make sense. I am optimistic that the set would be consistent, but without further exploration this could turn out to be incorrect, thus, I will say little more concerning the possibility.

There is a larger question than will be unanswered in the present work; what are the necessary *and* sufficient conditions for states? The present work merely contributes

to this larger goal by looking for some necessary conditions, while remaining quiet on whether or not they are sufficient. There are many debates in political philosophy, and to go into great detail with all of them would obviously be beyond the scope of the present work. Instead, I shall focus solely on anarchy and state sovereignty in international relations. These are the two main debates about the state. Let me now turn to these debates and say more about them.

IV. The Debates

I will look at two debates in political philosophy that concern the state. Just as with the features above, I will only briefly introduce the debates here, going into greater detail in later chapters. The two debates I will explore are anarchism and international relations, specifically state sovereignty in international relations. These two are closely related. Both are aspects of sovereignty. Each picks out one type of relationship that states have. The topic of anarchism picks out the relation that states have to single individuals. The topic of state sovereignty in international relations picks out the relationship that a state has to other states. There is another way of interpreting the difference as well.

Anarchism can be understood as relations that a state has towards those internal to the state, while state sovereignty in international relations can be understood as relations that a state has towards those external to the state, though this is admittedly a bit artificial, it makes a nice shorthand nonetheless.

Anarchism

Anarchism can largely be understood in two ways. We should be careful to keep these two options distinct. The two interpretations correspond to the first two moral features discussed above and to the first two concerns that philosophers typically have over states. First, we can take anarchism to be the doctrine that no states are just. I will refer to this as “justice-anarchism.” This can be understood in a number of ways. It could be the claim that a state must be entirely just, or meet some minimal threshold level of justice. Either way, the justice-anarchism position is that the threshold is unmet. There are, of course, many examples of states that nearly everyone would agree to as being unjust. For example, Nazi Germany was unjust, and horribly so. The anarchism position though is not simply that Nazi Germany was unjust, but that most, or all, states are unjust. Obviously, the lower the threshold, the easier it is to meet the standard of being just. Thus, it seems reasonable to assume that the anarchist has a reasonably high standard of justice that is required.¹⁶

Second, we can understand anarchism as the claim that no state has political authority. I will call this “authority-anarchism.” If X has political authority over Y, then Y has a duty of some sort to follow the dictates of X. As discussed above, this is an additional moral reason to obey X’s dictates beyond other possible reasons that Y may already have (e.g., a moral reason independent of X’s command). Thus, the authority-anarchist position denies that states have such an authority over its citizens.

¹⁶ There is another interpretation of course. It could be that states are just horribly abusive types of organizations, thus, even though the threshold is not high, states do not meet it.

To sum up, there are two ways to interpret anarchism. First, we may say that no state is sufficiently just. Second, we may say that no state has political authority. I write as if these are universal claims, though we may relax this and claim that the anarchism position applies to *most* states, rather than all. I should note quickly that there might be a third interpretation to anarchy. It could be some combination of the above two views.

To be clear, the debate regarding the anarchism position is whether or not there are states that have the first two moral features listed above and here described as the two ways to understand the anarchism position. The issue for us to deal with is, just what kind of organization are the anarchists worried about? What is it that they understand the state to be when they deny that states are just or have political authority?

International Relations

Self-determination in international relations is the question of sovereignty in the relations between states. States typically grant the sovereignty of other states and whether or not it is granted, it is typically claimed by states. This amounts to two basic ideas.

First, states allow other states to control what happens within their borders, when there is little impact outside of the state's borders. There are clear counter-examples to this, of course. When a particular state is performing unjust actions to a sufficient level, there is often interference with the internal affairs of the unjust state. This can come in the form of sanctions, military action, or various changes in the relationship of the unjust state to other just states (assuming that there are such things, which the anarchist may deny). Notice that this claim of sovereignty is simply a claim of moral unassailability.

Second, states claim the right to certain actions, even if those actions will be detrimental to or are against the wishes of, other states. For example, on the issue of nuclear deterrence, states that seek to develop nuclear weapons often claim that it is their right to develop nuclear technologies. This obviously prompts reactions from other states wishing to control nuclear proliferation. This in turn prompts differing responses by differing states, some of who continue to trade with the nuclear-desiring states, and some of who cease trading and demand that others do so as well.

Obviously there is much more explaining to do with regard to both the position of anarchism and self-determination in international relations. In later chapters much more will be said to help clarify the issues further.

To be clear, the debate of state sovereignty in international relations is largely over the sovereignty of states, i.e., are they sovereign and what does it mean if they are? What actions are permissible on the part of a state regarding other states? The issue for us to deal with is the same here as above. What kind of organization is it that the international relations theorist may be dealing with? What are the candidates for allowing the claim of sovereignty?

V. Conclusion

At this point I have only introduced candidate characteristics of the state, as well as two debates in which 'the state' takes an essential role. In the next chapter I shall go into much greater depth regarding the moral features described above and further detail regarding the debates of anarchism and state sovereignty in international relations.

Following this will be a chapter on features concerning control and then a chapter on the other types of features. Lastly, there will be a brief concluding chapter.

Chapter Two: Moral Features

I. Introduction.

In the previous chapter, I introduced the question at issue for the present work: What is a state? Furthermore, I introduced several candidate features that are sometimes offered as possible answers for what features are necessary for statehood, and grouped them into families of features. Finally, I introduced two debates about states that are frequently discussed in political philosophy: anarchism and state sovereignty in international relations. In the present chapter I will go into more detail regarding these two debates.

I will first motivate the debates and then explain how each can be understood broadly as a question about legitimacy. As we will see, legitimacy itself can be conceived of as three specific moral features: justice, political authority, and moral unassailability. In explaining these three moral features, I will also explore why none can be viewed as necessary features of the state. In later chapters, the families of features that were introduced in the previous chapter will be examined and to determine if those further features are necessary for statehood.

II. Anarchism and State Sovereignty in International Relations

It is important to be clear about why the question of what a state is matters. In political philosophy there are numerous debates that concern the state. In the present work we will look at the two most fundamental debates: the debate about anarchism and the debate about state sovereignty in international relations. These two debates can be

focused in different ways. Here we will focus on them as questions about whether or not states are legitimate in some appropriate sense (to be clarified below).

Anarchism is roughly the claim that “states are illegitimate”¹⁷ in some sense (again, this will be clarified below). States bring with them many problems and inconveniences for their citizens. For example, typically citizens of states must pay taxes. States also have a nasty habit of engaging in war-like activities. Why allow organizations that engage in such activities to exist? Robert Nozick writes, “The fundamental question of political philosophy, one that precedes questions about how the state should be organized, is whether there should be any state at all. Why not have anarchy? Since anarchist theory, if tenable, undercuts the whole subject of *political* philosophy, it is appropriate to begin political philosophy with an examination of its major theoretical alternative.”¹⁸ Thus, any work on the state must say something about this debate. Failing to do so is failing to justify any project in political philosophy that deals with the state.

As stated above, anarchism can be summed up as the claim that “states are illegitimate.” States do not simply make numerous claims on citizens, e.g., the payment of taxes and the obeisance of laws. Additionally, when citizens do not submit to these claims, the state imposes penalties, e.g., jail time. Reminiscent of the quote by Nozick above, a natural question follows: is the state behaving morally when it does all these things? Is the state legitimate? To this the anarchist says, “No.”

¹⁷ John Simmons actually gives this definition of anarchism. See his “Philosophical Anarchism” in *For and Against the State*, Narveson, Jan and Sanders, John eds., Rowman and Littlefield: New York, 1996.

¹⁸ Robert Nozick, *Anarchy, State, and Utopia*, Basic Books Inc., 1974, p4.

In the anarchist position there is a basic distinction regarding the question of whether or not states are illegitimate in principle or simply in practice. If the issue is *in principle*, then there is some feature that is necessary for statehood that is sufficient for illegitimacy. For example, suppose that states are necessarily physically coercive. If physical coercion is always illegitimate (as some forms of pacifism claim), then states are *in principle* illegitimate. On the other hand, if states are illegitimate merely in practice, then states are not necessarily illegitimate, but all (or most) existing states are illegitimate. On the *in practice* view states have a feature that is contingently illegitimate. For example, if states are coercive but, then, if coercion is illegitimate in the way it is practiced, then, *in practice* all (existing) states are illegitimate. Whatever the state is, it must be the kind of thing that the anarchists believe illegitimate, at least in practice.¹⁹

Recall from the previous chapter that there are also, at least, two forms of anarchism. These two types will correspond to the first two moral features to be considered. The first is the anarchist who denies that states are just. This position will be referred to as “justice anarchism.” The second type of anarchism denies that states have political authority. This position will be referred to as “authority-anarchism.” Both of these moral features will be explained below.

¹⁹ The biggest proponent of *in principle* anarchism seems to be Robert Wolff in *In Defense of Anarchism*, when he argues that there is no “viable form of political association which will harmonize the moral autonomy of the individual with the legitimate authority of the state.” (p69) However, even Wolff admits that direct unanimous democracy would achieve this, it is simply exceedingly unlikely. To make matters worse, shortly after saying there is no viable solution he also says “A contractual democracy is legitimate, to be sure, for it is founded upon the citizen’s promise to obey its commands.” (p69) So, it would seem that even Wolff is not really an *in principle* anarchist.

Let us consider our other debate, state sovereignty in international relations. Suppose that there is one state, A, that is unhappy with the policies of a second state, B. Typically, supposing state B is not behaving immorally, state A is not allowed to intervene. This is, roughly, the feature of moral unassailability. This is implicit in the claims by some states that they are “sovereign nations.” There are numerous questions and examples that can be raised to motivate this debate. First, war is a clear violation of state sovereignty. Granted, wars occur for numerous reasons, but each of those reasons raises questions for issues of state sovereignty. For example, can a state invade another state simply to stop a practice that will have bad economic consequences for the invading state? Let us take a more difficult example, suppose that a state is allowing gangs of thugs to roam the countryside and abuse citizens. Are other states allowed to interfere when the first state does nothing? Worse, suppose that it is state officials that are abusing its citizens. Is the status of being a state something that brings with it special protections in such circumstances? Often states do claim special protections of non-interference. Thus, questions about state sovereignty are questions that arise in discussing state actions on a frequent basis. Much like we must consider our neighbor’s response to some action we may take in our home (to some extent), the state must take into account the responses of other states to some actions that the state may take.

The moral question to be explored in questions over state sovereignty in international relations is roughly the same kind of question asked in the anarchist debate: Are states legitimate? The anarchist gives a definite answer to this question, but the international relations theorist is not so quick to make such a pronouncement (assuming that he is not also an anarchist). As was just made clear, there are numerous questions

that can be asked within the moral boundaries of state sovereignty. Consider the following from the abstract of *Ethics in International Relations*, by Mervyn Frost, “Most questions commonly asked about international politics are ethical ones. Should the international community intervene in Bosnia? What do we owe the starving in Somalia? What should be done about genocide in Rwanda?”²⁰ Notice, the answers to these questions will depend on the answers to other questions. If those with whom we are considering interfering are *legitimate* sovereign states, then we may give one answer to these questions, while if the states in question are *illegitimate* we may give a different answer. For example, interference with *illegitimate* states may be permissible, while interference with *legitimate* states may not be permissible. Implicit in these different answers are appeals to specific moral features, such as the feature of moral unassailability that was just briefly introduced. As we progress we will further investigate these moral features, as well as examine them as possible necessary features of the state.

Throughout, our concern will be with the question of what features states must have in order for these debates—the two forms of anarchism and state sovereignty in international relations—to make sense. If we take these debates to be about states, as I think that we should, then the question is simply: What are philosophers working within these debates writing about when they refer to “states?” A more specific way of phrasing the question as we move forward is the following: What features of states are anarchists pointing to when they claim that states are illegitimate and what features are international relations theorists pointing to when trying to make a decision about the legitimacy of a state?

²⁰ Mervyn Frost, *Ethics in International Relations*, Cambridge University Press, 1996, Abstract.

Let us make one further observation on the choice of these two debates. As should be clear by now, the question of state sovereignty in international relations is a question that is similar to the question in anarchism. Both debates are concerned with state legitimacy in some sense. Thus, state sovereignty in international relations is a natural pairing with the debate over anarchism. This allows us to conclude that if we cannot locate a consistent set of features that are necessary for statehood by investigating these two debates, then political philosophers have no hope of coming up with a single idea of the state that can be applied to all debates regarding the state. Let us now turn to the different possible interpretations of the feature of legitimacy.

III. Three Conceptions of Legitimacy: Justice, Political Authority, and Moral

Unassailability

As we saw above, it is a question of some sense of legitimacy that is central to both the anarchism debate and the debate about state sovereignty in international relations.

Legitimacy is a vague notion, but to say that a state is legitimate is to say that it has some kind of positive moral status. For the remainder of this chapter I will develop three conceptions of legitimacy— justice, political authority, and moral unassailability—and argue that none of these three features can be necessary features of the state. The first two moral features deal primarily with the anarchist debate, and the last is the feature primarily at issue in state sovereignty in international relations.

The legitimacy of a state depends somehow on the moral status of its actions. Thus, we must first address the question of what state action is. Setting aside worries over collective action, we can say that state actions are *legally permitted actions* taken by *state*

officials, acting in their *official capacity*. Allow me to explain this. First, state actions are only taken by *state officials*. For example, police officers, judges, mayors, governors, etc., are all different types of state officials who can take state actions, while private citizens cannot. Second, the action taken must be by the state official while acting in their *official capacity*. Hence, a patrolling police officer while *on duty* is acting in her official capacity and thus *is* performing a state action, while when she is *off-duty* and performing the same duty (maybe moonlighting for a security agency) is *not* performing a state action. Last, if we may loosely say that the laws of a state are descriptions of actions that a state finds permissible, then it cannot be a state action if the state would condemn the action. So, for example, imagine that the head of the FBI is using the power of the FBI to investigate a personal enemy. This would not be a legal use of her power. Thus, it would not be a state action. Thus, when referring to state actions, we will have in mind *legal actions*, taken by *state officials*, acting in their *official capacity*.

Before turning to the ways of understanding the idea of legitimacy, there is one last complication that must be introduced, and, up until now has only been hinted at in this chapter. There is a distinction when dealing with states between insiders and outsiders. To be clear about this distinction, we may say, provisionally, that those within the geographical boundaries of the state are internal, while those outside the geographical boundaries of the state are external. This gives us two types of relations, internal relations and external relations. Typically, the anarchist is concerned with internal relations, while worries over state sovereignty in international relations are worries about external relations. There are two points that we should keep in mind on this topic. First, the appeal to geography is simply a clear way of making the demarcation between

insiders and outsiders. We should not then assume that it is the only or even the best way. Second, while anarchism is typically concerned most with internal relations and state sovereignty concerns are mostly concerned with external relations, there is not truly a hard distinction between the two into these topics. Decisions by those outside the state may well rely on the actions of those within the state, and vice versa. Thus, while I have said that anarchism is primarily concerned with justice and political authority, and state sovereignty in international relations is interested primarily in moral unassailability, this is not to say that these issues arise only in those contexts. There will be overlap.

Let us now turn to our first way of understanding legitimacy, as justice.

Justice

The first way to understand the claim of legitimacy is that of justice. Given that we are talking about justice, a fair question to ask at this point is, what is meant by “justice?” The issue of justice is a tricky one, in part because the term ‘justice’ is used to refer to so many different concepts.²¹ For example, when we claim that a state is just, are we claiming that the state is rights respecting? Or might we mean that the state is fair? These are only two of the ways in which people use the term ‘justice,’ but I think that such differing concerns are sufficient to show that the concept of justice is by no means settled. Typically, when claiming that a state is just, I will mean that a state is rights respecting. However, what is said here will apply to any use of the term. Luckily for us,

²¹ For example, Peter Vallentyne identifies five different uses of the word in “Distributive Justice”, see *Companion to Contemporary Political Philosophy* edited by Robert Goodin, Philip Pettit, and Thomas Pogge, Blackwell Publishers, 2007.

at this point, we need not take a position on which way is the proper way to understand justice. What is said in the present chapter will be neutral to the different views.

In this context, the claim that a state is just should be understood as the claim that it is *sufficiently* just. If states had to be *perfectly* just, then it would not be surprising that states fail this test; of course no state is *perfectly* just. This should come as no surprise though; most (if not all) people are not *perfectly* just (or moral, if we wish to make a distinction between states and persons). As states are composed of people, we should not expect states to be *perfectly* just.

The main concern then is to decide what counts as a state's being *sufficiently* just? The claim that a state is sufficiently just will be vague, but we can say that being sufficiently just amounts to a reasonably achievable level of justice for a state. This could be, for example, a level that most states have actually achieved. This is similar to what we require for persons when considering morality. We do not expect anyone to be perfectly just, but we do expect that persons maintain the level of morality that most persons have achieved. The same requirement applies to states. Thus, we can define justice as:

Sufficiently Just: A state X is sufficiently just if and only if it is rights respecting to a reasonably achievable level, where a reasonably achievable level is one that most states have actually achieved.

In the previous chapter it was suggested that it might be a necessary feature of a state that it be sufficiently just. Let us now examine this claim. It is important that, whatever features are necessary for statehood, these features do not misrepresent or trivialize the anarchism debate or debates over state sovereignty in international relations.

For example, if being sufficiently just is a necessary feature of the state, then the anarchist claim that no state is just, entails that there are no states. But anarchists do not deny the existence of states. Indeed, they believe that states exist; they merely deny that they are sufficiently just. Thus, by including, as necessary, that states be sufficiently just we misrepresent the anarchist position. Moreover, we trivialize the debate in a rather patronizing fashion: If being sufficiently just is a necessary feature of statehood, then the anarchist cannot coherently deny that any state is sufficiently just. All states are sufficiently just and the debate over anarchism is trivially settled. Thus, if we claim that being sufficiently just is a necessary feature for states, we not only misrepresent the anarchist position, we also trivialize it. Anarchism acknowledges the existence of states; but it also denies that they have particular moral qualities.²²

There is a more general reason to reject being sufficiently just as necessary for statehood. Requiring sufficient justice for statehood confuses two questions that are clearly separate in the anarchism debate. The first question is: what is a state? The anarchist leaves this question largely unanswered. The second question is: which states are sufficiently just? The anarchist does answer this question, none of them are. For those who are not anarchists, the answer may be different, but the questions are still separate. Thus, we should reject as necessary for statehood the feature of being sufficiently just.

Let us now turn to our second moral feature and way of understanding legitimacy in the anarchist debate: political authority.

²² It might be noted that the two moral features yet to be discussed depend a great deal on justice. For example, it may be that we are not permitted to interfere with actions that are just, but we are permitted to interfere with unjust actions. This is correct, I think, but it would be premature to discuss the issue here.

Political Authority

The second conception of legitimacy is as political authority. In a sense, this is the hardest of the three moral features to understand. Let us consider some examples that will help clarify the concept. The idea behind political authority is simply that those inside the state have at least a *pro tanto* duty to obey the state's dictates. For example, states command that we pay taxes. If the state has political authority, then due to this command, its citizens have a duty to pay the imposed taxes. In the United States we are commanded to drive on the right side of the road. There is no moral reason independent of the state's command that we should drive on the right, but, if the U.S. government has political authority, then Americans have a *pro tanto* moral duty to drive on the right. Most states command their citizens to refrain from murder, something that they already have sufficient moral reason to avoid doing. If the state has political authority, then we have an *additional* reason not to murder. Moreover, this duty is *owed to the state*.

Before giving an explicit definition of political authority, we must clarify one additional aspect of political authority. We should pay close attention to the distinction between having an *absolute* duty and having a *pro tanto* duty. An *absolute* duty is a duty that must be obeyed, regardless of the circumstances.²³ A *pro tanto* duty is a duty that can be overridden by other competing duties. For example, we may have the duty to refrain from stealing cars. However, if the car is needed to save someone's life, it may be that the duty to refrain from stealing the car is overridden, and it is permissible to steal a car. Political authority, then can be absolute or (more plausibly) merely *pro tanto*.

Moreover, one organization could have an absolute political authority, while another has only *pro tanto* political authority.

Let us now explicitly define political authority as:

Political Authority: X has (*pro tanto* or absolute) political authority over Y if and only if Y has a (*pro tanto* or absolute) moral obligation, to X, to obey X's dictates.

Before examining this last feature to determine whether or not it is a necessary feature for statehood, let us briefly examine its relation to justice. As will be the case with moral unassailability, it may be that that political authority is parasitic to some degree on a state being just. Thus, it may be that if a state is not just, it cannot have political authority. An additional area of intersection between justice and political authority is when the state commands something that is unjust. My inclination is that a state cannot command unjust things and by that action provide its citizens with an obligation to behave unjustly. However, I am not here trying to settle these issues, but merely trying to show that political authority and justice are related.

Let us now examine this final feature to determine whether or not it is a necessary feature for statehood. The argument against political authority being a necessary feature for statehood is the same as that offered against the necessity of justice above. If we require it as a necessary feature, it trivializes and misrepresents the anarchist debate. This is because, if it is the case that all states have political authority, then, if we take anarchism to be the denial of states having political authority, then the anarchist either is denying that states exist (which is a misrepresentation) or is being incoherent (because states have political authority by definition, this is the trivializing aspect). In addition, we confuse two questions that should be kept separate: What is a state? And, does this state

have political authority? Thus, we can reject political authority as being a necessary feature of the state.

With this discussion of political authority concluded, let us now move on to the third and final of our moral features and the last interpretation of the claim of legitimacy: moral unassailability.

Moral Unassailability

The final moral feature and second way of understanding the claim of legitimacy on the part of states is as a claim of moral unassailability. This is the prominent moral feature for concerns about state sovereignty in international relations.²⁴ Roughly, this is the idea that others are not permitted to forcibly interfere with state actions. We frequently employ this idea and grant the status of being morally unassailable to certain actions. Consider the actions of the police. It is typically assumed that when an officer makes a routine traffic stop, the action of making the traffic stop is not something that the driver or others are morally permitted to interfere with. Consider also the claim mentioned above that states make to the effect that they are a “sovereign nation.” When they make such claims, it is typically a way of saying that other states are not allowed to interfere with its actions. This is an appeal to moral unassailability.

We can define morally unassailability:

Moral Unassailability: An action is morally unassailable if and only if others are not permitted to forcibly interfere with its performance.

²⁴ Though remember, this is not to claim that political authority and justice concerns do not enter here as well.

We need to be careful however. No state will be morally unassailable in *all* its actions. Consider the unprovoked invasion of a neighboring state. Clearly the neighboring state is permitted to forcibly interfere with the actions of the invading state; this is simply self-defense. To be plausible, the claim of moral unassailability must be limited to a claim regarding the actions of the state that are purely *internal* to the state. Thus, let us limit our discussion of moral unassailability in this way.

However, we are not finished by simply talking about internal and external actions. We should consider two other brief examples in order to show the need for one final clarification regarding moral unassailability. These examples make clear the interaction between moral unassailability and justice. First, consider Nazi Germany. Nazi Germany was a state that was grossly unjust (recall, this means that it is a gross violator of rights). For this reason, it would be odd to say that Nazi Germany was morally unassailable. Moral unassailability is compatible with some injustice, but not with gross injustice. To make this clear, consider a second example, Norway. Norway is clearly much more just than was Nazi Germany.²⁵ However, it may not be perfectly so; in fact, it seems reasonable to assume that it is not perfectly just. After all, it is made up of persons, nearly none of which will be perfectly moral. Just as we saw the need for the idea of being *sufficiently* just above, we must use the same standard here. At a minimum, we may say that a state is morally unassailable just so long as it is not grossly unjust. Remember, the question here is about *forcible* interference. We may begin to verbally criticize long before reaching a state of forcible interference.

²⁵ After all, Norway does have a professional ethicist on the state payroll.

Let us now examine the claim that an organization must be sufficiently morally unassailable in order to be a state. Here, we have the same worry that we had above when discussing justice and political authority. In international relations there will frequently be the issue of whether or not a particular state is permitted to interfere with the affairs of another state. Frequently, the justification offered for such interference will be a moral one. If we are considering interfering with the affairs of a state other than our own because that state is, for example, unjust, we are automatically acknowledging that the feature of being morally unassailable is unnecessary for statehood. One of the concerns in state sovereignty of international relations is whether or not it is permissible to forcibly interfere in the internal actions of other states when they are not grossly unjust. To require the state to be morally unassailable, in order to be a state, would trivially resolve the question: it is not permissible to forcibly interfere. We would be left with two options, either we may not (morally) interfere, or the organization we are interfering with is not a state. However, the question at issue in international relations is whether or not a particular *state* is morally unassailable, not a question of whether or not such organizations are states.

Lastly, requiring that states be morally unassailable confuses two questions that should be kept distinct. The first is: is organization X a state? The second is: is organization X morally unassailable?

IV. Conclusion

We have looked at three ways of understanding the claim that states are legitimate. It is clear that statehood cannot depend on the moral features of being sufficiently just, having

political authority, or being morally unassailable. To include such features as necessary for statehood is to trivialize and misrepresent the debates about anarchism and about state sovereignty in international relations, as well as to confuse two questions that should be kept separate.

We will now move forward to look at the remaining families of features and determine whether or not those features are necessary for the state. In the next chapter we will examine features concerned with control, while in Chapter Four we will consider all the remaining families of features.

Chapter Three: Features Concerning Control

I. Introduction

Next to moral features, the most commonly discussed features regarding the state are those that are concerned with the use of force.²⁶ For example, must states use force, must states be coercive, or must states have a monopoly on the use of force? What is really at issue with these features is *control* on the part of the state. Each of these features is an attempt to better understand states having control of the area that comprises the state. Thus, I will refer to these features not as features which concern the use of *force*, but as features that deal with *control* on the part of the state.

I will begin this chapter by quickly arguing for two separate conclusions that will help us frame the discussion moving forward. These two conclusions are: that some kind of control is necessary for statehood and that states must issue dictates. Following this, I will briefly introduce and reject two possible ways of garnering the requisite control necessary for statehood—involving what I call *adoration control* and *offers*—on the part of the state. Finally, I will explain and address two features that are often taken for granted in discussions about the state, the ideas that states are necessarily *coercive* and that states necessarily have a *monopoly on the use of force*. Both of these ideas are murky and will need to be explained before we can determine whether or not they are

²⁶ For a small sampling of those who discuss force on the part of the state consider Nozick's *Anarchy, State, and Utopia*, William Edmunson's *Three Anarchical Fallacies*, Max Weber's "Politics as a Vocation", and Alexander Passerin d'Entreves' *The Notion of the State*, just to name a few places where the use of force is discussed in some form.

necessary for statehood. Moving forward I will periodically pause to show why control is the real issue with these features and how what is being discussed connects to control.

Before turning to the features for discussion in this chapter we should pause to revisit our methodology. We are considering a feature necessary for statehood if it is necessary for making sense of one of our debates, anarchism and state sovereignty in international relations. At this point we have not yet found a feature to be necessary. Additionally, we are concluding that a feature is not necessary if invoking it trivializes the debates at hand by making one position in the debate trivially true. If it turns out that on the basis of one debate a feature is deemed necessary, and on the basis of another debate it is deemed unnecessary, we can conclude that we are dealing with two distinct concepts. While this possibility must be acknowledged, we are working with the assumption that the two debates, both concerning the state, are actually about the same type of entity. We should also acknowledge the possibility that a different debate may come to other conclusions regarding a feature's necessity. However, we will also move forward with the working assumption that the disparate views of the state are consistent, hence arguing simply that features are necessary or not (rather than constantly reminding the reader of the context in which the argument is made). Let us now turn to the argument that some kind of control is necessary for statehood.

The argument that some feature concerning control is necessary for statehood can be found in the debate over state sovereignty in international relations. Christopher Morris makes the point well:

States not only claim ultimate power within their realms, they also claim independence of one another (“external sovereignty”). In rejecting the authority of popes and emperors, sovereigns asserted the state's autonomy

of other states. Not only is the state the author of its own laws—the etymological meaning of ‘*auto-nomos*’—the laws of others have no claim on it. With the advent of the sovereign state, relations between states or “international relations” become possible.²⁷

Elsewhere, Morris says the following: “With the development of the concept of sovereignty, we have the main elements of what is called the state system: independent states and “international relations”.”²⁸

Sovereignty can be defined as, roughly, “the supreme authority within a territory,”²⁹ taken as an empirical claim, not a moral one.³⁰ When a state makes a claim of sovereignty, what the state is claiming is that it is the state that controls what happens within the state. If we take this in a non-moral, but empirical sense, then this is simply a claim to be the authority of control in the state. It is the state that is the “supreme authority within the territory.”

This idea of being the supreme authority in the territory—state sovereignty—simply does not make sense absent some kind of control on the part of the state. It is this control—whatever it turns out to be—that allows for the issue of state sovereignty in international relations to make sense as a topic of discussion. If the state lacks control, then how are we to make distinctions between states? We cannot. Consider some particular geographical area. Suppose that a group of people gets together as if they are a

²⁷ Christopher Morris, *An Essay on the Modern State*, Cambridge University Press, 1998, p41.

²⁸ *Ibid.*, p173.

²⁹ See the *Stanford Encyclopedia of Philosophy*, the entry on “Sovereignty”, by Dan Philpott.

³⁰ It is tempting to think of sovereignty in terms of the moral features we examined in the last chapter, that a sovereign state is one that is morally unassailable. We can understand this as a claim of moral unassailability. However, as we saw in the last chapter, the feature of moral unassailability should not be accepted as a necessary feature for statehood, it should be rejected. Thus, we need a different take on the concept.

legislative body and starts to vote on rules that should be in place for that geographic region. However, the others in the region simply ignore the rules. The “legislative body” travels around trying to get people to follow the rules, going so far as to invoke a claim of sovereignty. In such an example the claim of sovereignty does not make sense. There is no government for the region. Thus, we can conclude that it is necessary that states have control in some form. The question for us to consider is what form this control *must* take *for the relevant debates we are concerned with*.

The issue of control as it applies to states is confusing. There are at least two separate questions that will be useful in framing what follows. First, there is the question of *how* a state maintains the requisite control? For our purposes this question becomes, what method of control is required by the debates at hand? Second, there is a question of *what* the state controls? These two questions are importantly different. The state may control, for example, the education of its citizens. This control can be achieved in a number of possible ways, e.g., the state could make threats against those not complying with the educational dictates of the state, or simply offer large financial incentives to those who comply, etc. The important aspect of the current discussion is that the issue of control will have something to say on both these fronts. Typically, there is very little that is considered as a necessary area of control, the exception to this claim being that the state is often taken to control the use of force within the state. We will address this specific feature below. Let us now try and further give structure to this idea of control.

As a first step in making sense of the idea of control, we can consider the possibility that a state must control every aspect of the lives of its citizens; this is clearly false. Consider the United States Constitution. Contained within that document is the

Bill of Rights, which specifically precludes state control of certain issues. At best states control only certain aspect of the lives of their citizens, e.g., maybe the education of its citizens, or healthcare decisions, or some economic decisions, or protection issues (military and police). This is the control of *what* issue just discussed. Thus, there must be some way for states to limit the areas of control that they claim over citizens. One natural way that states can achieve this limiting is by issuing dictates. This places the area of control into the public domain and allows it to become mutual knowledge.

I say that this is a *natural* way of limiting the area that the state controls, but our question is not what is *natural* for statehood, but what is *necessary*? At first glance it may seem incoherent for a state to control something about which it does not issue a dictate. For example, it seems initially incoherent to think that the state is controlling traffic if the state does not issue dictates in the form of traffic laws. However, we could garner the requisite control simply by physically forcing them or by giving all the citizens of a state the proper pill.³¹ It may be that traffic laws cannot be delivered in pill form (though there may be no logical incoherence in such an idea), but we could imagine some other area of control that is more intuitive for control through pills.³² Thus, if we wish to claim that states *necessarily* issue dictates, we need to find another argument.

Consider the anarchist who is worried about political authority. Authority-anarchism only makes sense in the context of some claim of political authority, which only makes sense in cases where the entity in question is issuing dictates. If there are no

³¹ My actual view here would be that both the case of physically forcing and the case of giving a pill are cases of issuing a dictate; it is simply not making it public.

³² Or, suppose that the state simply wanted its citizenry to do nothing, it could achieve this by simply sedating its citizenry.

dictates, then there are no commands, and if there are no commands, there can be no obligation to obey commands. Thus, we can conclude that in addition to having some kind of control, the state must also issue dictates. It is then a reasonable step to conclude that the control will be over the areas of the lives of the state's citizens that are governed by the dictates. That is, it is the dictates that give us the scope of control for the state.

Thus, we have two conclusions that we can draw thus far: states must have some kind of control (whatever it turns out to be), and states must issue dictates about the activities controlled by the state. We should note also, that the authority-anarchist is really done at this point, in terms of what it will necessitate regarding control. All that will be required by the authority-anarchist is that the state issue dictates. For this reason, we can set aside that debate for the remainder of the chapter.

Consider again the two questions regarding control that were specified above. The debate over sovereignty requires that there be *some* feature which the state utilizes to control some actions within the state. This question will be further explored shortly. The authority-anarchist requires that there be a *what* to state control. The *what* will be identified in the dictates that the state issues. Notice that thus far we have not taken a position on the specifics of *how* a state maintains the requisite control or on any specific types of dictates that the state must issue. What follows will be an attempt to further flesh out these claims. Let us now turn to the *how* of control.

Notice that simply issuing dictates will not be sufficient for having the requisite control. The state may issue dictates all it wants; if no one follows the dictates, then there is no control. I may walk around issuing dictates; it does not follow that everyone will begin to do as I command. Somehow the dictates must influence behavior. If the state

does not influence behavior, then there is no control. Because the state must have some kind of control, we need to find something to pair with the issuing of dictates that does influence behavior. We will begin by looking briefly at two ways of influencing behavior that may provide control, but will not provide what we are looking for.

First, consider a state that is run by a queen, call her Elizabeth. Elizabeth may be so loved by her people that her people simply do as she wishes. Elizabeth has but to claim that she thinks that people should drive on the right, and the people of the state will do exactly that. The people of the state so love Elizabeth that she has complete control over the state simply by expressing her desires. Call this type of control *adoration control*. I will show why this does not work in a moment, but first, consider another type of control that will be rejected for the same reason as this adoration control.

States may also influence behavior through the use of *offers* to cooperate in some fashion with others. For example, suppose that the United States wanted to be sure that a particular business made no deals with other states to sell arms. One way to ensure that this happens is for the United States to agree to buy various items that the company produces on the condition that it not deal to other states. In similar fashion, the state can influence behavior by making offers in the form of large financial incentives to people who follow the state's dictates. Thus, we have two ways of influencing behavior, first, adoration control, second, control through offers of cooperation of some sort. Neither of these methods, I shall argue, will be necessary for statehood by the debates we are considering.

There is nothing in our debates that requires these strategies of control. The sovereigntist requires only that there be some kind of control, but is neutral about how the

control comes about.³³ Thus, there is nothing in the sovereignty debate that will require or reject adoration control or control through offers. If there is an argument here for inclusion or rejection it needs to come from the anarchist, so let us look there.

For the justice-anarchist to have a complaint about the state, the state must be violating rights in some way. However, there are no rights being violated by the state when the state *offers* to buy something from those internal to the state (and it is a true offer)³⁴, or when people simply choose to follow the dictates of the queen (though there might be many complaints about the people who simply follow such dictates); thus there is no complaint by the anarchist that claims that *states* are unjust. Recall too, authority-anarchism requires only that the state issue dictates. It has nothing to say about how those dictates are enforced. We need a type of control that is objectionable on the part of the anarchist, or that the sovereigntist for some reason requires. It may be that some other debate would require one or both of these types of control, it is simply not the case that either is required by the debates we are considering.³⁵

³³ It has been suggested to me that the sovereignty debate does have something to say on this front. Such an argument might go as follows. If the state does not have a least a minimal level of adoration control, then the citizens of the state will be in revolt against the state. If the citizens of the state are in revolt against the state, then the state does not have the requisite control. Thus, the state must have some minimal level of adoration control.

While I find this argument appealing, it is not clear at all that without adoration control the citizens will be in revolt. First, the citizens might have no reason to revolt against the state. The citizens may hate the state, yet still find the dictates that the state issues sensible and so follow them anyway. This simply points to another method of control, “sensible dictate issuing control.” Second, it may be that the state does not exercise adoration control, but does behave like a brutal dictator, controlling the state through fear. Thus, while we may find an argument for adoration control in another debate which concerns the state, it will not come from the state sovereignty issue.

³⁴ This is as opposed to offers that are not truly offers, as in the case of eminent domain in the United States. In such cases the government may “offer” a certain amount of money for the property being claimed, but there is no substantive option to refuse the offer.

³⁵ Notice, this is not a claim that our debates find these features unnecessary in the same way that the moral features in the previous chapter were found to be unnecessary. Here our debates are quiet on these features, there the debates were not quiet, but required the rejection of these features are necessary.

We need to find some kind of control that will animate that anarchist in some way. Thus, let us now turn to coercion as a stronger type of control.

II. Coercive Control

The idea that states must be coercive is a common assumption in thinking about the state. William Edmundson writes in *Three Anarchical Fallacies* that: “That the state is an utterer of coercive proposals and a coercive agent is an *assumption* of liberal political theory which has served it by enabling it to cast an *onus probandi* upon those who argue for a more active state.”³⁶ Edmundson then goes on to argue that the claim that states must be coercive is a fallacy. We will return to Edmundson shortly.

The concept of coercion is hotly contested, but for our purposes we can take coercion to involve a threat to some agent if she does not conform to the coercer’s dictates.³⁷ Largely, there are two basic positions on coercion. There are empirical accounts of coercion and moral accounts. Before elaborating on this distinction, I will clarify some further aspects of coercion. I will then turn to and reject the moral account in favor of an empirical account.

Coercion involves some kind of threat to make the coerced worse off relative to some baseline. This should be understood as a baseline of wellbeing. The most relevant

³⁶ William Edmundson, *Three Anarchical Fallacies*, Cambridge University Press, 1998, p84. Emphasis his.

³⁷ This definition is intended to be neutral with regard to the discussion that follows. However, I should note that not everything that meets the definition just given will be taken as coercion by all parties involved in discussions about coercion. Alan Wertheimer, for example, will only take instances of behavior that both meet this definition and are proposals to make the coerced engage in a wrong act as coercive. For example, plea bargains involving innocent people will fit the above definition, yet Wertheimer does not take such cases as cases of coercion.

baseline is the level of wellbeing that would have been obtained had the threat never been made. Thus, coercion involves a *threat* to disadvantage someone such that the disadvantaged is worse off if they do not comply with the threat than the disadvantaged would have been had the threat never occurred. Alan Wertheimer explains this well when making a distinction between threats and offers:

The crux of the distinction between threats and offers is quite simple: A *threatens* B by proposing to make B *worse* off relative to some baseline; A makes an *offer* to B by proposing to make B *better* off relative to some baseline. More precisely, A makes a threat when, if B does *not* accept A's proposal, B will be worse off than the relevant baseline position. A makes an offer when, if B does *not* accept A's proposal, he will be *no* worse off than in the relevant baseline position.³⁸

We can see that the unproblematic case of a state offering to buy various products produced by a company if it does as the state wants is an *offer* in the way just described by Wertheimer. The baseline that is most relevant for our purposes is simply an empirical baseline regarding the wellbeing of the agent to whom the proposal has been made. If the agent is worse off for refusing the proposal than they would be if the proposal was not made, then the proposal is a *threat*, not an *offer*. The use of threats to ensure that the dictates of the state are obeyed is a common tactic, for example, if someone refuses to pay taxes, they are threatened with jail time. The question for us is, is coercion a necessary feature for making sense of the anarchist debate?³⁹

³⁸ Alan Wertheimer, *Coercion*, Princeton University Press, 1987, p204

³⁹ We need to also be careful to not confuse threats with warnings. To use Wertheimer, warnings are action inducing, as are threats, they both influence behavior on the part of those who receive the warning or threat. However, threats are also situation altering, while warnings are not. A warning is simply revealing the situation that the warned is already in. A threat is a change in the situation for the threatened. This also shows the motivation for the baseline choice that we have made. The baseline that we are using is the baseline generated by the absence of the situation altering threat. Notice, this gets at our current concern precisely. The state needs to control something, alters the situation that citizens of the state are in; and, the

As was stated above, there is a distinction between moralized and empirical accounts of coercion. A moralized account of coercion is one where coercion is always, at least, *pro tanto* wrong.⁴⁰ In the account of coercion offered by Wertheimer, coercion involves a threat to do something wrong if the coercee does not comply with the threat. For example, consider a mugger scenario. In such cases there is a threat to harm the victim if the victim does not hand over whatever is requested. This fits well with the basic, pre-theoretic intuition that there is something wrong with coercing people into doing things.⁴¹ An empirical account of coercion will hold that some cases of coercion will be immoral and others will not. For example, the mugging case just described will be immoral. A moral case would be something like the following, a man is holding a gun to a child and you have a gun aimed at the shooter and say, “if you don’t put down that gun I will shoot you.” The basic idea behind an empirical account is that there will be other, contingent factors that will determine the morality or immorality of the coercion. As stated above, I think that an empirical account is the only way to argue that states are coercive, but let us look briefly at a moral account to see why.

In *Three Anarchical Fallacies*, Edmundson accepts Wertheimer’s moralized analysis of coercion and argues that coercion is not a necessary feature for statehood along the following lines: Coercion is always unjust; however, states need not be unjust;

state’s dictates must be action inducing. Let us now take a closer look at coercion. The language of threats as being “situation altering” is the language that Wertheimer uses on p 96/7 of *Coercion*.

⁴⁰ For a detailed account of this type see Wertheimer’s *Coercion*, where he formulates and defends a moralized account.

⁴¹ Though I think that we can easily offer cases that will challenge this intuition.

thus, states need not be coercive.⁴² Edmundson rejects that claim that states must be coercive because he wants to argue that the anarchist is not correct in their claim that states are unjust. In fact, he calls the requirement that states are coercive a fallacy. Because Edmundson draws on the work of Wertheimer, and Wertheimer develops and defends an account of coercion where coercion is understood in a moral sense (roughly as a threat to violate someone's rights if one does not do as told), Edmundson concludes that coercion is unjust. If this is correct, then if coercion is a necessary feature for statehood, the anarchist has won the debate; states are necessarily unjust. It is this result that Edmundson seeks to avoid and which leads him to the conclusion that, therefore, states are not necessarily coercive.

We should quickly note, however, that Wertheimer defends a moralized account of coercion as relevant for *moral responsibility*. He seems open, however, to other senses of coercion being needed to account for other contexts where coercion arises. Consider the following, where Wertheimer explicitly invokes the state:

In most coercion contexts, B's action would change his moral or legal status—were it not for the coercion. He would, for example, be obligated to do something he was otherwise not obligated to do. By contrast, the *state's* coercive threats typically give B prudential reasons to do what he is morally obligated to do in any case (not kill, not steal, pay his taxes, and so forth). Because the coercion does not change B's moral status, whether the state is exercising coercion is not problematic. Put slightly differently, *the moral considerations that (help) determine whether someone is coerced (in the sorts of responsibility-affecting contexts on which I have focused) are importantly distinct from the sorts of moral considerations that figure in the justification of state coercion.*⁴³

⁴² See William A. Edmundson, *Three Anarchical Fallacies*, Part 2.

⁴³ *Coercion*, p256. Emphasis mine.

Thus, Wertheimer at least, is already in agreement that his account of coercion may not apply in state contexts. In fact, in this quote he seems to explicitly deny that *state coercion* is unjust, because the state is often using coercion to get people to go along with moral obligations that they already have. The fact that Wertheimer would go along with an empirical analysis of coercion is not evidence that there is no real complaint; after all, Edmundson adopts the view that coercion is unjust, and is working within a state context. It is his acceptance of the claim that coercion is unjust, combined with the claim that states can be just, that leads him to conclude that states need not be coercive.

It was noted above that there is something intuitive about the idea that coercion is wrong, so why reject the moralized account of coercion? Why not just accept Edmundson's claim that states need not be coercive? I have two comments to make on this issue. The first comment is simply an appeal to intuitions. I think that the answer is to be found in the quote offered by Wertheimer. The state often threatens to make citizens worse off if they do not obey the dictates of the state, but we do not take all these instances as cases of an unjust action. For example, when the police threaten to shoot someone to prevent that person from killing another person, then, pacifist worries aside, there is nothing unjust about this. Thus, there are cases where we threaten to make others worse off if they do not obey a dictate, and it is not unjust.

Second, suppose that we do find coercion to be a necessary feature for statehood. If coercion is necessarily unjust, then we have the same type of argument that we had in the previous chapter for the rejection of moral features. If coercion is a necessary feature for statehood *and* coercion is necessarily unjust, then states are necessarily unjust. The anarchist debate has been trivialized. In the previous chapter we rejected the claim that,

for example, states must be just, because that made the definition of statehood incompatible with the anarchist position, that states are unjust. The anarchist position becomes incoherent—claiming that a just organization is unjust. Here the reverse happens; the anarchist automatically wins—there is a feature necessary for statehood that is necessarily unjust. It is not as vicious as the case in the previous chapter, but it trivializes the debate nonetheless. We must reject either that *states are coercive* or that *coercion is unjust*. Edmundson chooses the first of these. I think that it is best to reject the second, that coercion is unjust. To show that this move is the correct one, I need to give a more specific account of coercion and show that it is necessary for statehood. So let us look more closely at an empirical account of coercion and argue for its necessity.

As an empirical account of coercion, we can consider the following as a basic definition:

Coercion: Person A coerces Person B into doing Action Z just in case A threatens to make B worse off relative to a baseline absent the coercive proposal if B does not Z

This is an empirical account, but does preserve the idea that coercion is intended to be action inducing and is situation altering. However, as it is an empirical account, it preserves the idea that there could be cases of coercion which are morally permissible and cases which are morally impermissible. Let us examine this account to determine whether or not it is a necessary feature of statehood.

Remember, the fact that most states actually do threaten to make citizens worse off if they do not obey the dictates of the state is not enough for us to conclude that this account of coercion is necessary for statehood. We need to find a reason in one of our debates to accept it as necessary.

The justice-anarchist will quickly point out that, while there are numerous areas where the state may be justified in acting coercively, e.g., to prevent a murder from taking place, there are also numerous instances where the state is not justified in behaving coercively. It is these cases where the state is not justified in behaving coercively that animate the anarchist. For example, if we suppose that drug use is morally permissible, then any state who forbids such actions is behaving unjustly. The complaint is simply that the state threatens to make citizens worse off when performing morally permissible actions, e.g., drug use, or driving on the left (or right) side of the road. The complaint is not simply that the state issues dictates about these actions, but that the state uses threats to ensure that its dictates are followed. Thus, it is exactly coercion that animates the anarchist and we can conclude that coercion is a necessary feature for statehood. Without the feature of being coercive, the justice anarchist debate does not make sense. Notice, this also settles the disagreement with Edmundson above. There we saw that Edmundson required us to either reject that *coercion is unjust*, that *states are unjust*, or that *states are coercive*. We have now responded by rejecting the claim that *coercion is unjust*, in favor of an empirical account of coercion that we have found necessary for statehood.

We have drawn several conclusions. First, states must have some kind of control, and, states must issue dictates about the activities they control. Second, states are necessarily coercive, understood as an empirical claim. We now have a further question to consider regarding coercion: What kind of coercion is necessary for statehood? Must the state use coercion that involves force? Or can it occur through the use of social pressures? I shall refer to the first of these as “forcible coercion.” This could be in the form of a punch to a person’s body or a gunshot. Pacifist worries aside, it is clear that

forcible coercion can be both just and unjust (consider the examples offered above). It is also clear that this type of coercion is used by states, and is the type of state coercion that we are most familiar with.

Clearly coercion can involve the use of force, but it need not, and the idea of coercion through social pressures gives us a way to make sense of this notion. Social pressures can be coercive in a number of ways. For example, in a society where visiting prostitutes is looked down upon, a threat to expose the visitor may serve as a more potent deterrent than any fine the state could impose. This will make the visitor of the prostitute worse off in numerous ways, relative to the baseline position where the information is not revealed. For example, if the information is revealed, then the visitor of the prostitute suffers social embarrassment. This will make him worse off relative to the baseline where there is no threat to reveal the information. This could be carried to a much more robust level than the example just given. For example, notifying a neighborhood that there is a sex offender living in the neighborhood will create great pressure on the sex offender to move. If we allow for extremely robust responses on the part of society, then we could carry this all the way to completely shunning certain individuals, because of information revealed by the state. For example, if a response to pedophilia was so strong as to result in an entire society refusing to do business with the offender, then the threat to reveal such a thing about an individual would indeed lead to changes in behavior. This type of coercion could also be used justly and unjustly. For example, if the state were to lie about an individual, then this would be unjust; whereas, if the state simply publicizes

already public information, the practice would be just.⁴⁴ I shall refer to this type of coercion as “social coercion.”

The question for us to answer now is whether both or only one of these types of coercion, forcible coercion, or social coercion, is necessary for statehood? Notice, the issue cannot simply be that the state uses force or that the state reveals information about actors in the state. These are things that would concern anyone, not only the anarchist. Everyone is (or should be) concerned with the force used by an individual who simply chooses to assault another. Many non-anarchists would be concerned with the revealing of information about individuals. The concern is with a link between these things, the use of force and the revealing of information, and an attempt to control the actions of others that is of special concern to the anarchist. I shall argue that forcible coercion is necessary for statehood, while social coercion is not. Thus, let us look at social coercion and see why it is not the kind of coercion needed for statehood.

Whatever kind of organization the justice-anarchist is worried about must be the kind of organization that can violate rights in some way. This causes a problem for social coercion. It is not at all clear that social coercion of the type described above typically violates rights. For example, we are within our rights when we refuse to do business with, or to interact with people who behave in ways that we disapprove of. If I disapprove of wearing green shirts, then I am within my rights to threaten to not shop at your store if you wear green shirts. Thus, while there may be some intuitive sense in which the state acting in this way is behaving unjustly, it is not clear that this is the case.

⁴⁴ It is not enough that the information simply be true. For example, if we grant that individuals have a certain right to privacy regarding medical information, then the truthful revealing of some disease may still be unjust, because it is not public information.

There is another way to make this point clearer. One criticism of anarchism is that it views only social chaos as just. This is the justification for the state offered by Hobbes in *Leviathan*. Without the sovereign “the life of man” is “solitary, poor, nasty, brutish, and short.”⁴⁵ This is a good justification for the state. If the anarchist wishes to avoid this charge, then there needs to be some response. The response comes in the form of denying that this description by Hobbes would come to fruition if the state did not exist. This avoidance of chaos is achieved by an appeal to other types of regularity and order that come about from sources other than a forcibly coercive state. These other sources of order are the same type of control that we see in what I have described as social coercion. Moreover, the anarchist, rather than objecting to such control, praises it as an alternative to the forcible coercion of the state.⁴⁶ Thus, it cannot be this type of coercion that animates the anarchist into objecting to the state. We need something else that will garner the requisite control. The question now is, does forcible coercion give us the requisite control, and is it required by the anarchist debate?⁴⁷

Assume for a moment that, in the vein of some libertarian philosophers⁴⁸, drug use, at least in some cases, is within an agent’s moral rights. The non-consensual use of force to enforce a dictate against the using of drugs would constitute coercion on the

⁴⁵ Thomas Hobbes, *Leviathan*, Part 1, Chapter 13, section 9.

⁴⁶ See, for example, Jan Narveson’s “The Anarchist’s Case,” in *For and Against the State*, Sanders and Narveson eds., 1996.

⁴⁷ It is worth noting that Max Weber, who first coined the idea of a monopoly on the use of force, to be examined below, also thought that the state was necessarily forcible in its actions. Shortly before discussing the monopoly on the use of force he quotes Trotsky in saying that “Every state is founded on force.” He agrees with this claim and asserts that without the use of force state institutions would quickly vanish.

⁴⁸ This is not to suggest that only libertarian philosophers think this.

above definition and would also constitute a rights violation on the part of the state with regard to those citizens who wish to do drugs. This is the type of restriction that some libertarian anarchists are worried about when the claim is made that states are illegitimate, they are restricting morally permissible actions. Consider the following claim by Murray Rothbard, “War is mass murder, Conscription is Slavery, and Taxation is Theft.”⁴⁹ This is a claim that the state is behaving unjustly. There would be no complaint if the state were merely making requests or trying to get others to exert pressures on an individual, that is, there would be no complaint if the state merely used social coercion. There is only a complaint because the state uses *force* to ensure that its dictates in these matters are obeyed. Thus, we may conclude not simply that *coercion* is necessary for statehood, but that *forcible coercion* is necessary for statehood. Joining the issue of force together with our definition of coercion above we get the following:

Forcible Coercion: Person A forcibly coerces Person B into doing Action Z just in case A threatens to use force against B if B does not Z and this makes B worse off than the baseline of wellbeing absent the threat.

The baseline concern is assumed to be taken care of in the use of force, that is, the use of force is understood to worsen the coerced’s wellbeing relative to the wellbeing of the coerced absent the threatened force.

Thus we can conclude that, as a necessary feature for statehood, states must be coercively controlling, where this is understood to occur through the use of force.

Notice, this answers our first question above regarding the *how* of state control. How does the state maintain the control requisite for the issue of state sovereignty? It utilizes

⁴⁹ Murray Rothbard, “Property and Exchange,” *Left-Libertarianism and Its Critics: The Contemporary Debate*, Peter Vallentyne and Hillel Steiner, eds., Palgrave, 2000, p216.

forcible coercion. However, we are not finished with our concerns over control. We must now examine what is *normally* taken to be a stronger claim, that states must have a monopoly on the use of force.

III. The Monopoly On the Use of Force

Max Weber's claim—that a state is an organization that monopolizes the use of force for a codified (specified) geographical region—is typically taken to be the core necessary feature of the state.⁵⁰ It is unclear, however, what it is to have a monopoly over the use of force and whether it is a necessary feature of the state. Thus, I will first clarify what it means for an organization to have a *monopoly on the use of force*. Only by properly understanding the notion can we determine if a *monopoly on the use of force* is a necessary feature of statehood.

What does having a monopoly over the use of force amount to? Max Weber puts it thus: “[W]e have to say that a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory . . . the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it.”⁵¹ This idea is picked up Robert Nozick (among others), who writes: “A state claims a monopoly on deciding who may use force when; it says that only it may decide who may use force and under what conditions; it reserves to itself the sole right to pass on the legitimacy and permissibility of any use of force within its

⁵⁰ Max Weber, “Politics as a Vocation,” *From Max Weber: Essays in Sociology*, H. H. Gerth and C. Wright Mills trans. and eds., Oxford University Press, 1946.

⁵¹ Max Weber, “Politics as a Vocation,” p78.

boundaries; furthermore it claims the right to punish all those who violate its claimed monopoly.”⁵² Consider also Peter Vallentyne, who writes: “A *state* is a rule-of-law-based coercive organization that, for a given territory, effectively rules all individuals in it and claims a monopoly on the use of force. . . . An organization *claims a monopoly on the use of force* just in case it prohibits the use of force (or credible threat thereof) without its permission.”⁵³ The idea behind all of these descriptions is that it is *the state* that decides when force can and cannot be used and the limits of that force. The use of force without state sanction risks the state’s wrath.

Before more closely examining the idea of a monopoly over the use of force, let us introduce one question that we can quickly answer and set aside. Must the state *claim* a monopoly on force, simply have a monopoly on force, or both? It is clear in the three authors above that they take it as a given that a state must *claim* the monopoly. However, we should examine this. To see that a state must claim the monopoly on the use of force, consider the following: Imagine a world with God. No one can use force if God does not allow it. God is the true force monopolizer, for all geographic regions. However, God has no desire to be the force monopolizer of the world and does not claim a monopoly on force. If it were not necessary to claim the monopoly, then God would have a monopoly on the use of force and rule out the possibility that any other possible state could exist, assuming that the feature of the monopoly on the use of force is necessary for statehood.⁵⁴ However, the

⁵² Robert Nozick, *Anarchy, State and Utopia*, Basic Books Inc., 1974, p23.

⁵³ Peter Vallentyne, “Libertarianism and the State,” *Social Philosophy and Policy*, 24, 2007, emphasis his.

⁵⁴ We cannot say that God would be a state, because a monopoly on the use of force may only be a necessary condition, not sufficient.

mere existence of God does not rule out the existence of states. Thus, we can conclude that the monopoly on the use of force must be claimed.

This gives us two potentially necessary features of the state regarding the monopoly on force; states must *have* a monopoly on force (whatever it amounts to) and must *claim* that monopoly. What does it mean to *claim* a monopoly on the use of force? I shall not attempt a full answer to this question. I shall simply assume that a sufficient condition for claiming is that the organization makes some sort of credible public pronouncement to the effect that it, the organization, will take steps to prevent the use of force without the state's permission.⁵⁵ I will comment more on this shortly, but notice that this is similar to the idea that the state must issue dictates, which we saw above.

With the worry about claiming out of the way, we can move on to other aspects of a monopoly on the use of force. It is not only that the state must claim a monopoly on the use of force; the state must *have* a monopoly on the use of force. So, what does it mean to *have* a monopoly on force? In the narrow sense, an organization has a monopoly when it is the only seller of a particular service or product. This way of looking at the monopoly on force raises two points. First, we might then understand a monopoly on force strictly: only the state uses force. However, this way of reading the monopoly claim cannot be correct. This is because the state is *not* the *sole user* of force. States *typically* allow for the use of force by private citizens, in some circumstances. For example, private citizens are typically permitted to use force to defend themselves. Thus, states cannot be understood to have a

⁵⁵ We could allow for a broader view of claiming, for example, the organization may make it known that they control a certain area by simply acting in a certain way. The only claiming that will be uncontroversial is the public pronouncement; hence, I will assume this version of claiming as I move forward. I am open to broader views; however, my goal here is not to clarify the different ways in which things can be claimed, thus, let us move on.

monopoly on force in the sense that the state is the *sole user* of force. States have a monopoly on force in the sense that the state fully *controls the rules* which govern the use of force. How are we to understand this claim? Simply thus: it is the state who decides which rules—laws, for example—will exist that say when force may and may not be used. Typically there will exist laws that prohibit certain uses of force, e.g., non-consensual assaults, and permit other uses of force, e.g., self-defense. The idea that the state has a monopoly on force is the claim that not only does the state have such a set of rules, but also that it is the state’s rules that trump all others when it comes to a decision about whether force will be used.

We should note here that, even though the monopoly must be successful⁵⁶, this should not be understood as being perfectly successful. A state is *perfectly* successful in its monopoly on force if no one ever uses force in ways not permitted by the state. The claim that the state must have a monopoly over the use of force is a claim that the state has a reasonably effective monopoly. For example, suppose that there is criminal activity within the state. Most states, of course, take steps to prosecute offenders. However, there will be some criminals who manage to escape prosecution. This is not enough to establish that the state has no monopoly over the use of force. The monopoly must be claimed and yet, though the monopoly must be *successful*, it need not be *perfect*. What is clear is that the state must achieve a sufficient level of control concerning the use of force.

Notice, the idea of having a monopoly on the use of force is about issuing specific kinds of dictates—dictates concerning the use of force. In the language of control, this means that those holding the view that a monopoly on the use of force is necessary for

⁵⁶ And this is obviously a requirement in the quote by Weber above.

statehood will endorse a specific kind of *what* that the state controls. The claim that the state must be *successful* in this is the claim that the state somehow influences behavior in this area, thus there is a requirement regarding the *how* aspect of control as well.

The second point that is raised by the question of how to understand *having* a monopoly on the use of force is a distinction between having a *de jure* versus a *de facto* monopoly on the use of force. A *de jure* monopoly would mean having a right (whether moral or some other type) to the monopoly, where a *de facto* monopoly is simply having a monopoly in fact. To help make this distinction clear, consider the following examples, where the *de jure* normativity is understood as legal. In many communities in the United States only one provider of electricity is legally allowed. Hence, if one had the desire to start an electric company and provide electricity, this would be prevented. In such a case the electricity provider has a *de jure* monopoly of electricity delivery. Consider a different example. Consider a community with only one health food store. There is no law forbidding the existence of other stores, there are simply no other businesspersons who have the desire to open and run such a store. In this case, the single health food store has a *de facto* monopoly on health food. They are *in fact* the only health food provider in the community. However, they have no right to this status of being the only health food provider in the sense of having a claim against any other businesspersons opening a health food store. The electricity provider does have a claim against others opening a business that provides electricity.

How are we to understand the monopoly on the use of force that states have and claim? Is it a *de jure* monopoly or a *de facto* monopoly? It must be understood as *de facto*. To see this, let us look at the *de jure* option. First, the most relevant sense of having a *de*

jure monopoly is a moral one.⁵⁷ Suppose that a state must have a moral *de jure* monopoly on force. Remember, this is basically the claim that the state has some kind of right to the monopoly. Setting aside relativist worries, it is safe to claim that Nazi Germany's political organization did *not* have any right to control the use of force in Nazi Germany—they did not have a morally *de jure* monopoly on force—yet it is also safe to assert that Nazi Germany *was* a state. The victims of the Nazis would have been completely within their moral rights to resist being herded into ovens. Thus, it seems we can reject the claim that a state must have a *de jure* monopoly over the use of force.⁵⁸

We can make this rejection clearer by simply bringing the feature in line with other arguments that we have made all along. Requiring the monopoly on force to be *de jure* trivializes certain debates in political philosophy, namely, the authority-anarchist debate. If we consider the authority-anarchist, then the anarchist position cannot be coherently defended, as long as the monopoly is understood as being a *de jure*

⁵⁷ The example just used to explain the notion was a legal understanding. This will not make sense here because it is possible that in order to have laws there must first exist a state. This would be obviously problematic if it is a legal right to monopolize force.

There is a second sense that could be considered as well. It might be that there is some kind of social norm that must be had on the part of the state. This is an interesting suggestion. However, I think that it misrepresents the idea that the state has a right to monopolize force as it does. It may be that there is some necessary feature, separate from the monopoly on force that consists of the state being in conformity with social norms to some extent. However, this should not be confused with the idea that a state must also have a monopoly on force.

⁵⁸ It has been suggested to me that there may exist other senses of *de jure* that are based on human law, rather than some kind of natural moral law, for example, international law or law by convention. Admittedly, these are other senses of *de jure* that could be examined. However, we do not require that states conform to international laws, nor that they conform to social conventions. In both these cases we would end up rejecting Nazi Germany as a state. This is because Nazi Germany flaunted both of these types of law. Second, of the two, only convention has a real chance at success. This is because until very recently there really was no such thing as international law. Thus, while I admit that we could explore other senses of *de jure* in great detail, the one most relevant for our purposes remains the moral sense.

monopoly.⁵⁹ This is because all states would have, by definition, a *de jure* monopoly on force. This gives the right to rule at least on issues of when force may be used. However, this makes the authority-anarchist position the following: states, which have political authority at least in cases of force, do not have political authority. Any definition of the state that makes anarchism incoherent is inadequate. Anarchism is at least a coherent position.

The more general way of putting the point, a point made in the previous chapter, is that requiring states to have a *de jure* monopoly on force (again, understood in the moral sense) confuses two questions that we should keep separate, the question of whether or not an organization is a state, and the question of whether or not a particular state has a particular moral quality. If we require that all states morally possess their monopoly on force, then we lose the ability to make this distinction. Thus, we can reject the claim that a monopoly must be understood as a *de jure* condition. The monopoly on force must be understood as a *de facto* monopoly on force.^{60 61}

⁵⁹ In the terminology of the previous chapter, requiring a state to have a *de jure* monopoly on the use of force is tantamount to requiring that a state possess political authority.

⁶⁰ It has been suggested to me that a state may have a *de jure* right to the monopoly, yet use it in unjust ways. While the distinction is correct, it is only a small victory. Consider the right of a father to command his son, a paternal authority, if you will. While we may admit that the father has such an authority when it is used in a just fashion, we would quickly abandon the idea that the father had any claim over the son if the father behaved towards the son in ways morally inappropriate. The same would apply here; we would grant the claim of a *de jure* monopoly only if the state used it in morally appropriate ways.

⁶¹ Thus far I have offered argument that it is not *necessary* that the state have a monopoly on the use of force in the *de jure* sense. However, it could be objected that having a *de jure* monopoly on the use of force is *sufficient* for having a monopoly on the use of force. However, this too would be incorrect. To see this, we should first be very clear about what the purpose of the monopoly on the use of force, as a feature, is. What role does the monopoly on the use of force play for the state? It is a claim of some kind of control on the part of the state. This is another reason it is insufficient to merely *claim* a monopoly on the use of force, but it is also the reason why a *de jure* monopoly is insufficient. Suppose that a particular state did have a *de jure* monopoly on the use of force for a given area. Suppose further that the state is militarily weak. When the state's militarily strong neighbor decides to invade and does away with the rule of the weaker state it does not really matter that the weaker state can protest immoral treatment. The weaker state

Thus far I have argued that a monopoly on the use of force must be claimed and further that we should understand having a monopoly on the use of force in the *de facto* sense. A *de facto* monopoly on force requires that the state controls the rules that govern the use of force. As we have rejected a requirement that the state must have a monopoly in some *de jure* capacity, this basically amounts to the state being the entity that enforces its will with regard to the use of force. Thus, *having* a *de facto* monopoly on the use of force is:

De facto Monopoly: an actualized capacity to ensure the state's will regarding the use of force.

However, we must be a bit clearer about the idea of having a monopoly regarding the use of force.

Consider the following. Canada and the United States are in close proximity, neighbors. The United States is militarily strong, while Canada is militarily weak. Does the Canadian “state” have a monopoly on the use of force in Canada? Given the vastly superior military power of the U.S., it seems that Canada has a monopoly on the use of force only so long as the United States goes along with it. If, for instance, Canada ever took an action that was opposed by the United States, then the United States *could* stop this action with the application of military force. So it seems as if Canada does not monopolize the use of force in an important sense. Moreover, though I use the example

has no control over the state, thus, the weaker state no longer exists. Our moral rights protect us *in fact* only from others that are moral, or when we have the force to back them up. Thus, while it may be a nice moral *bonus* to have a *de jure* monopoly on the use of force, it is neither *necessary* nor *sufficient* for having a monopoly on the use of force in the sense that we are worried about. The monopoly on the use of force must be understood in the *de facto* sense.

There is a further consideration along these lines. It could be that it is necessary for the state to claim that the state has a *de jure* monopoly on the use of force. This may indeed be correct. However, it is an issue that is separate from the idea of control. Thus, while I think it an important issue, we will not deal with it here. We will address this issue in the next chapter, while discussing what I call “doxastic features.”

of the U.S. and Canada, the worry is more general than a worry simply over Canada and the United States. It is a problem for any militarily weak state. Given that Canada, and probably many of these other militarily weak entities, is clearly a state in the relevant sense, we need to make a change to *de facto* monopoly. So let us consider the point a bit further.

There are two ways to understand this capacity to enforce the state's will regarding the use of force. First, we could take it to be an absolute ability, where the state has the capacity to enforce its will no matter the wills of others. This would give us the following:

Absolute Monopoly: the absolute actualized capacity to ensure the state's will regarding the use of force

Ultimately, this will fail; it is too strong. This would entail that Canada does not have the requisite monopoly over Canadian territory. Thus, we can conclude that Absolute Monopoly is not necessary for statehood (assuming we want the feature to be understood in such a way that we can maintain Canada's statehood). At most a monopoly in some sense weaker than absolute is. Thus, if we want to maintain Canada's statehood, we need to put some kind of condition on Absolute Monopoly.

The puzzle is this: Canada has the capacity to enforce its will in Canada, regarding the use of force; however, so does the United States. As we have already seen, the United States does not, as a matter of fact, make a claim to govern of the area that makes up Canada. This makes it so that Canada is not part of the United States, but we want to make a stronger claim. Does the fact that the United States has the capacity to enforce its will over Canada negate Canada's capacity to do so? As long as the United

States continues to refrain from the use of force to implement its dictates over the area that comprises Canada, then Canada does have the requisite capacity.⁶² Notice, this makes the capacity on the part of Canada contingent on the dispositions of the United States. As long as the United States is not disposed to invade Canada to impose its will, Canada has the actualized capacity to enforce its will regarding the use of force.⁶³

We must revise what it means to have a *de facto* monopoly on force to take into account this contingency of the dispositions of stronger states and other entities.

However, we must also take into account the sheer *ability* of some strong states and entities. For example, for the United States, exercising a monopoly on force is not dependent on the dispositions of other states.⁶⁴ It exercises its monopoly through sheer military capacity. The contingent factor then is the *ability* of other states and entities.

Thus, we should understand the *de facto* monopoly on force to be:

Conditional Monopoly: The actualized capacity, given the ability and dispositions of others, to ensure the state's will regarding the use of force.⁶⁵

⁶² This should be reminiscent of the discussion on claiming the monopoly that we saw above.

⁶³ This should not be surprising though. Notice, this is always the case with strong states and weaker (militarily speaking) states. I think that it also matches well with intuitions. If the United States took over Canada, then Canada would cease to exist as a separate state.

⁶⁴ Though it may be so dependent in the future.

⁶⁵ This is actually very similar to a claim made by F. H. Hinsley in his *Sovereignty*. In that work Hinsley traces the history of sovereignty. In a discussion of modern states he points out an objection which comes in the spirit of Absolute Monopoly. In response he writes the following: "To argue this way is to associate the attribute of sovereignty with the possession of the state of freedom to act as it chooses instead of with the absence over and above the state of a superior authority. To do this is to confuse the situation to which states may often have aspired, but have never in fact enjoyed, with the opposite condition from which the concept of sovereignty in its international version historically obtained its relevance and from which it continues to derive it—that condition in which a collection of states, all insisting on their independence, were brought to recognize that they do not exist in isolation but are forced to live with other states." *Sovereignty*, 2nd ed., Cambridge University Press, 1986, p226.

This solves our problem of Canada nicely. Canada does have the actualized capacity to ensure its will concerning the use of force. This is because no other entity is currently able or disposed to enforce its own will regarding the use of force over Canadian territory. Thus, we have arrived at a feature that maintains Canada as a state and maintains the possibility of a monopoly on force as a necessary feature of statehood. We must now examine this claim to determine whether or not this is a necessary feature for statehood, given the debates that are at issue in the present work.

I will assume that the authors who claim that a monopoly on the use of force is necessary for statehood understand it in the way just explained. It would be nice if we could simply conclude that Conditional Monopoly is a necessary feature simply in virtue of the authors above who claim that it is a necessary feature for statehood. After all, Nozick, to take one of the authors, is working within the anarchist debate, so is he not an authority on what the anarchist is concerned with? However, our goal is not simply to find a philosopher who endorses a feature, but to find some reason in the debates that necessitates the feature.

It is worth noting that frequently the idea of coercion is taken to be a part of having a monopoly on the use of force.⁶⁶ A monopoly on the use of force is taken to be a stronger claim. However, given what we have seen so far, this need not be the case. Forcible coercion is a feature that is concerned with *how* a state enforces dictates. A monopoly on the use of force is concerned with a particular *what* of control, control regarding force. However, we can easily consider cases where some entity has a

⁶⁶ Consider for example, Nozick, who seems to implicitly assume the feature of coercion when discussing the monopoly on the use of force in *Anarchy, State, and Utopia*, p52. There he does not explicitly state that coercion is included in having a monopoly on the use of force, but it is clear that he thinks it is so.

monopoly on the use of force without behaving coercively. Take the example above of Elizabeth in my description of adoration control. Her subjects so adore her that they make sure that their actions coincide with her every desire. This could include wishes concerning the use of force. Thus, coercion and the monopoly on the use of force clearly come apart as concepts. If we are going to find the monopoly on the use of force a necessary condition for statehood, we will have to argue for it separately.

In *Anarchy, State, and Utopia*, Nozick famously argues that from a state of anarchy, states, and just states, could arise. He assumes that states must have a monopoly on the use of force and so his first goal is to show how a monopoly on the use of force can arise justly (thus arguing that the anarchist is mistaken). He claims that protection agencies would arise and that eventually one agency would come to dominate all others, garnering the requisite monopoly. He calls this situation the *ultramiminal state*, which he defines as so: “An ultramiminal state maintains a monopoly over all use of force except that necessary in immediate self-defense, so it excludes private (or agency) retaliation for wrong and exaction of compensation; but it provides protection and enforcement services *only* to those who purchase it protection and enforcement policies.”⁶⁷ Notice, these agencies can issue dictates concerning the use of force, without having a monopoly. Moreover, non-dominant agencies can use forcible coercion to ensure that these dictates are obeyed. However, without the assumption by Nozick that a monopoly on the use of force is a necessary feature for statehood, there is no reason to think that there must be some *dominant* protection agency. It could be that as long as these agencies maintain a kind of control through forcible coercion (to take into account the features found to be

⁶⁷ Robert Nozick, *Anarchy, State, and Utopia*, Basic Books, 1974, p26.

necessary above), then this is enough for statehood. So why think that a monopoly on the use of force is necessary?

Notice the problem for the current project on this front. Nozick simply accepts Weber's definition for statehood, and then goes on to show how the necessary condition can be met in a just fashion.⁶⁸ The problem for us is that, while Nozick is working within the anarchist debate, the anarchist worries can be generated without a dominant protection agency. Imagine that there are two existing protection agencies in a particular area. These agencies both compete for customers, but they also both restrict liberties, they both violate rights by restricting moral freedoms that those who are not their customers have. Nozick admits that there is something to this complaint and that the dominant protection agency will have to pay compensation to those so restricted. However, this is done in a non-consensual way, so why would the anarchist not have a complaint about this?⁶⁹ Thus, the anarchist worry gets generated before a monopoly on the use of force is achieved. But if this is the case, then the monopoly on the use of force is not necessitated by the anarchist debate. At most we can conclude that something reasonably close to a monopoly on the use of force is necessary for statehood, but this stops short of a monopoly. We must turn elsewhere for the requisite argument.

Consider the start of this chapter. There it was argued that the sovereigntist requires that the state have control of some kind. When paired with the issue of force

⁶⁸ Though the picture is far more complicated than I have sketched here. For a good examination on why Nozick fails to find a just state, see Eric Roark's "Nozick's Failed Defense of the Just State", in *Libertarian Studies*, vol. 21, No. 1, p3-37, 2007.

⁶⁹ Nozick attempts to address this concern with the compensation issue just mentioned. Thus, the issue as Nozick deals with it is far more complicated than I am here portraying. The main point stands though, the complaint is not one that arises only when there is one dominant protection agency, but before a winner emerges.

there is another possibility that is suggested as a way to show the necessity of a monopoly on the use of force. It could be that if the state does not monopolize the use of force, then the state cannot garner the requisite control. This is because force, as a motivation, tends to trump all other considerations. To make this clearer, consider the following. Imagine a state that says nothing about the use of force, leaving it up to individuals to make the decisions on their own. Suppose however that the state issues a dictate to the effect that when the taxman comes to your door, you must pay a tax. We have seen that the state will use forcible coercion to ensure that this dictate is followed. However, if the state does not have a monopoly on the use of force, then others will have the ability to resist the state's dictates, also through the use of force. The ability to control the area of the state will be contingent on the power of those *within* the state. If the state does not issue dictates specifically about force, and then over-ride all other rules concerning force, through forcible coercion, then anyone who is willing to use force will be able to flaunt the rules set out by the state.

It could be objected that the only thing required by our tax man case is a further dictate that others not use force against agents of the state. If this is true, then the state need not have a monopoly on force. However, this is a small victory. If others also issue dictates backed by force, then citizens will simply follow the dictate with the most feared punishment, or the most immediate. But, now it is not the state which is in control, but the closest or best user of force.

The point here is that without having a monopoly on the use of force the state will not have the ability to control the state that is required by the state sovereignty debate. The main thrust of this chapter is that the state must somehow have control over its

citizens. Our question regarding the monopoly of force is, is there anything that necessitates that states issue dictates regarding the use of force, specifically? The current suggestion is that, without having a monopoly regarding the use of force, the state will not be able to garner the control required by the state sovereignty issue. If this is the case, then the monopoly on the use of force is a necessary feature of statehood.

Furthermore, if the state does not have a monopoly on the use of force, then there is nothing to prevent others from using forcible coercion as described above. Thus, while the state may have a certain level of control, if a monopoly on the use of force is not necessary, then there is nothing to prevent others entities from having an equal level of control. However, this goes against the idea that it is the state that must have control. If others have an equal level of control, then the state does not have control, but competition. Thus, we may conclude that the monopoly on the use of force is a necessary feature for statehood.

IV. Conclusion

In this chapter we have found several features to be required. First, states must have control over the area that comprises the state. Second, states must issue dictates. These dictates must be enforced through forcible coercion. Last, the state must have a monopoly regarding the use of force. In the next chapter we will look at a number of remaining features that are frequently assumed as necessary for statehood.

Chapter 4: Other Miscellaneous Features

I. Introduction.

In the previous chapters we saw that the moral features of being just, possessing political authority, or being morally unassailable should be rejected as necessary features for statehood. Additionally, we saw that a state must have control over the behavior of the individuals in its jurisdiction, where this is understood to include, at least, the possession of a forcibly coercive monopoly on the use of force (understood in the qualified sense described in the previous chapter). There are a number of other features that we should examine before concluding and this chapter will attempt to do just that.

The features discussed in this chapter can be separated into three broad categories. The first category involves largely *physical features*. These are features which concern claims that the state must be a certain size, or be linked to a geographic region. Second, there is a category concerning *institutional features*. These are features largely concerned with the organization of the state, e.g., must the state have a government? Third, there is a category best described as *doxastic features*. These are features that concern the beliefs of individuals about the state.

Recall, we will be taking a feature to be necessary only if it is necessitated by one of our three debates, justice-anarchism, authority-anarchism, and state sovereignty in international relations. Many of the following features will be irrelevant for these three debates. This does not mean that these features are *not* necessary for statehood, only that we cannot draw such a conclusion here. If we wanted to find many of these features to

be necessary for statehood, then we would need to consider a further debate or offer some other kind of argument for the feature's necessity. Let us turn to the first of these families of features, the physical features.

II. Physical Features

There are three features that will be discussed under this heading. The first is that a state must occupy a particular geographic region. The second is that the state must be of a certain size. The last is that the state must be continuous over space and time.

Geographic Region

States must have a way to distinguish between insiders and outsiders, or rather, being inside the state and outside the state. This is clear in what has come before. It is often assumed that states make this distinction through the use of geographic boundaries. That is, states must be linked to a *geographic region*.⁷⁰ This idea is clear enough, the basic idea being that the state ranges over geography, not simply persons. For example, a state does not work in the same way that a club works. A club can have rules (or could) that apply only to *club members*, regardless of geographic location. If a person does not belong to the club, then there is no authority by the club over the person. For states, typically, any persons within the geographic boundaries of the state will be subject to the state's laws. The question is, is there any reason within our debates which necessitates

⁷⁰ See, for example, Christopher Morris, who writes: "Something cannot be a state without a territory, and the state's authority is essentially territorial." *An Essay on the Modern State*, p 264. There Morris also explains Nozick's need for the minimal state, a problematic move, to be based, at least in part, on the idea that jurisdiction in a state is based not on individuals, but on territory.

such a feature? This is a standardly assumed feature. For example, the quote, in the previous chapter, regarding the monopoly on the use of force by Weber made explicit reference to geography in the sense we are concerned with. We should not deny that it is convenient to assume that states comprise a certain geographic region. However, our question is not what is *convenient*, but what is *necessary*?

Clearly a distinction is needed between those governed by the state and those not so governed. Notice, the requirement for this distinction is one that has to do with jurisdiction. There are some places that a state has jurisdiction over and others where the state has no jurisdiction. Why is it necessary that a state be able to make this distinction? I think that this is a rather intuitive claim, but let us look at one of our debates and see why this is necessary. This distinction is required by the state sovereignty issue. State sovereignty, recall, is a claim that it is the state that controls what happens, in some way, *internally* to the state, and is then concerned with external relations with other entities (largely other states). Thus, if the only way to make this distinction is with geography, then we can conclude that this is a necessary feature. Before looking at the debates more closely, let us consider an alternative arrangement.

Given that it is natural to speak of states ranging over geographic regions, it would be helpful if we could offer some alternative arrangement that might be capable of making the internal/external distinction. Suppose that instead of geography states simply held sway over groups of particular persons, for example, something like belonging to a clan. For example, each clan makes its own rules. These rules can then apply to all clan members, regardless of the member's geographic location. If such a situation were possible, then in any given geographic region there could be individuals who belong to

numerous states, assuming that there were groups that overlapped. Consider another example, the Catholic Church. We could imagine that the Catholic Church is actually a state.⁷¹ Catholics exist all over the world and we could conclude that they are all part of the Catholic State, in virtue of the fact that they are Catholic. In such an example, the Catholic Church has jurisdiction over Catholics. The example is a little difficult to grasp, but only because Catholics are spread throughout other states, based on geography. However, if all states had jurisdiction of people, rather than geography, this difficulty vanishes. The concern here is, how do we draw the line to determine jurisdiction? Is it a line on a map—a geographic boundary—or is it jurisdiction over persons, just like a club, clan, or the example of the Catholic Church?⁷²

Is there anything in our debates that will require that we answer the question of jurisdiction by appeal to geography, or will our debates allow us to answer the question in some other way? Consider first the anarchist debates. Is there anything in the justice-anarchist debate that requires that geographic regions are a necessary feature for statehood? Given that there is nothing special about geography when it comes to determining whether or not a state can violate rights, it does not seem that there is anything in the justice-anarchist position that requires geographically determined jurisdiction. Remember that we understand justice to be a matter of being rights respecting. It is easy to see that a state can violate rights however we determine

⁷¹ This is not to imply that the Catholic Church is not a state. It might be. Perhaps for this example to work we also need to assume that Vatican City does not exist.

⁷² There is an interesting example that suggests that there is something to both of these ways of deciding jurisdiction. As just one example, American citizens working outside the United States are required to pay income tax on any income over a certain amount. That is, the first part of the citizen's income is tax free, because it was earned elsewhere, but after a certain threshold, the citizen is required to pay taxes.

jurisdiction. This is because the state could still engage in abusive, rights violating actions. Thus, there is nothing in the justice-anarchist debate that requires geography as the method for determining jurisdiction.

Next, consider the authority-anarchist, recall that the work of the authority anarchist was completed in the last chapter. All that is required by the authority-anarchist is for the state to issue dictates to those inside the jurisdiction of the state. This can be accomplished irregardless of the geography concern. Thus, neither of the versions of the anarchist debate that we are considering will necessitate the geographically-based jurisdiction.

Consider then the state sovereignty issue. Is it possible to have a debate over state sovereignty if states range over persons rather than geography? Again, I think that we must answer, yes. The way that we would conceive of such an issue would need revision, but the debate could continue, nevertheless. The current way that the debate is framed is as a split between geographic locations. The United States has jurisdiction over the geographic region that comprises the United States, Canada has jurisdiction over the geographic region that comprises Canada, and so on. Were we to conceive of jurisdiction as something that ranges over people instead of geography, then we would need to revise the way that we make distinctions between states, for example, we could no longer use geography to make the distinctions in jurisdiction. One example of how this might change things is in law enforcement. Currently, a law enforcement agency from one state can only operate in another state with the host state's permission. If jurisdiction was something that ranged over people, then law enforcement could operate anywhere. There would seem to be an elimination of worries over extradition. Given the potential for

closer interaction between states, state sovereignty may be an even more important issue. That is, the internal/external distinction will be much more complicated. However, as we can easily see how the state could still make jurisdictional distinctions while ranging over persons rather than geography, we have nothing that necessitates geography as a necessary feature for statehood.⁷³

Thus, we cannot conclude that a geographic region is a necessary feature for statehood. Notice, this is *not* to conclude that a geographic region is *not* a necessary feature for statehood, as we concluded with the moral features discussed in Chapter 2. Here our debates are silent on the issue. Let us move on to the next feature for consideration.

Size

It is often assumed that states must be of a certain size. For example, when the Council of Europe was deciding whether or not to admit Lichtenstein a debate ensued because Lichtenstein was too small.⁷⁴ The worry was over whether or not the Council should admit “micro-states.” This is a convenient assumption because it allows for us to draw a distinction between organizations that may appear to be very state-like, yet are not. For

⁷³ Much of this discussion could greatly benefit from a discussion of ‘peoples.’ The problem with such a discussion is that the notion of ‘peoples’ is at least as ambiguous as the notion of the state. In the current feature, it could be that states somehow have jurisdiction of a people, not a territory. Furthermore, this feature is not the only one that would benefit from such a discussion. The issue of states over time may also greatly benefit from a discussion of peoples. However, such a discussion would not only be a distraction from the main points being discussed, but also be a very large distraction.

⁷⁴ The story is told by Mansbach and Ferguson in *The State, Conceptual Chaos, and the Future of International Relations Theory*, p26. Lichtenstein currently has only about 25,000 citizens. Ferguson and Mansbach also report from Bruce M. Russert and Harvey Starr, in *World Politics: The Menu for Choice*, p 68, that some members of the Council of Europe were worried that if some microstates were to apply for membership the Council might be required to answer the question of what states are.

example, a small family may seem to have many of the same characteristics as a state, yet we are hesitant to say that a small family is a state. Thus, it would be nice if we could simply conclude that there is a size requirement for statehood.⁷⁵

We should quickly note that this should not be taken to be some particular number that we could use to distinguish state from non-state. For example, we could not give a reasoned answer for why we require states to have one hundred citizens, rather than ninety-nine. Thus, if we are to hold that a particular size is necessary for statehood, this notion should be understood as being vague. There simply is no plausible criterion for determining the requisite size. Any attempt would simply be *ad hoc*.

Is it necessary, according to one of our debates that the state be a certain size? Here we can quickly argue as we did above. Consider first the two anarchist debates. There seems to be nothing about being a certain size that would prevent rights from being violated. Thus, in the justice-anarchist debate, size seems to be irrelevant. We can offer a similar argument for the authority-anarchist.

There is a special case that we should consider regarding size before considering the state sovereignty issue. If there is *no* size requirement, then it would be possible to have a state made up of *one*. If we need to make room for the state to be both internally and externally unjust, then this causes problems. It is easy to see how a state of one could be *externally* unjust. The troublesome aspect is the *internal* injustice. If it is not possible for a person to violate her own rights, then the state of *one* could not be. Given that it

⁷⁵ We should also recall that Aristotle seemed to make a similar requirement, that states be of a certain size. In the *Politics* Aristotle writes: “When several villages are united in a single community, large enough to be nearly or quite self-sufficing, the state comes into existence. . . .” *Politics*, Bk 1, Ch 2, Jowett trans., found in *The Complete Works of Aristotle*, the Revised Oxford Translation, vol. 2, Jonathan Barnes, ed..

seems rather incoherent to say that some one can violate her own rights, then we can conclude that there is a minimum size for statehood. A state must have a minimum of *two* citizens. This is not much of a claim. The question now is whether or not it is required to be larger by concerns over state sovereignty.

State sovereignty, as a *pragmatic* concern would require that the state be some size larger than two. This is because a state this small would easily be overtaken by larger states. However, the fact that it is pragmatically desirable to be larger than two is not the same as *necessitating* that the state be larger than two.

There is nothing about the state sovereignty debate that necessitates that states be larger than two citizens. The requirements for making sense of this debate are having some kind of internal control and of being able to make an internal and external distinction. A spousal *couple*, can easily fulfill these requirements. They may have some kind of control over the actions internal to the couple and may easily make a distinction between themselves and those external to the couple. Thus, there is no need for a size requirement *larger than two*, based on the state sovereignty debate.

Let us turn to the next feature in this family.

Continuous in Space and Time

It is sometimes assumed that a state must be continuous in space and time. The basic idea here is that states don't have breaks in their existence in either geography or in time.⁷⁶ We can quickly dismiss this feature. It is composed of two parts, one part

⁷⁶ This is a feature endorsed by Morris in *An Essay on the Modern State*, though it is not explained in detail. See also Cara Nine, "A Lockean Theory of Territory," *Political Studies*, 56 (1), 148-165, 2008.

concerned with geography and one concerned with time. With regard to the geography aspect, I have two points to make. First, we have already seen that a geographic region is not required for statehood. Given that the current requirement presupposes a geographic region and we could not conclude that the weaker feature (simply a geographic region) is necessary for statehood, then we cannot conclude that the stronger feature (a continuous geographic region) is necessary for statehood.

Second, suppose for a moment that we accept the weaker claim that a state must occupy a geographic region. There clearly are states which are geographically discontinuous. For example, the United States is composed of the contiguous forty-eight states, plus Hawaii and Alaska. Alternatively, Indonesia is composed of numerous islands. Thus, we can either reject this feature or we can reject that the United States and Indonesia are states. It seems more plausible to reject this feature.

There is another version of being geographically continuous that we can consider, and which would be a more plausible view, if geography were necessary. Hillel Steiner suggests in an unpublished paper that we might want to consider what he calls the *No Discontinuity Rule*.⁷⁷ The rule is: “a territory is unified if an unbroken line that connects any two points in that territory need traverse no foreign territory.” Notice, this allows for the United States, with Alaska and Hawaii as discontinuous land masses to still not be discontinuous states. This is because we can draw a solid line from the contiguous states to Alaska and Hawaii.⁷⁸ This is a much better idea for what those pushing for continuous geography are after. However, even understanding the feature this way does not make is

⁷⁷ Though it is not clear that Steiner endorses the rule.

⁷⁸ Steiner also mentions a stronger version whereby the line may not cross international waters as well.

necessary. First, there is the point already made that the weaker claim that states range of geography has already been dismissed. Second, there are examples in history of a state failing to satisfy the No Discontinuity Rule. Consider that Rhodesia, a landlocked country, was once a British colony. At the time, though there were neighboring British colonies, they were an island in the midst of other colonies. Yet it was Britain who controlled the area and it was considered part of Britain. We can also consider a variation on the historical example of Pakistan and Bangladesh. Suppose that Bangladesh had been landlocked, rather than having access to open water. This hardly seems a barrier to the two continuing to constitute a single state.⁷⁹

This leaves us with the time aspect of the current feature. The idea that a state must be continuous in time is a claim to the effect that if there were a break in the state's existence, then the state after the break would not be the same state as the state before the break in time. However, there are two questions at issue here. First, there is the question of *what a state is?* Second, there is the question of *state identity over time*. The claim that a state must be continuous in time is a claim regarding the second of these two questions. While this is an interesting question, it is not our question. Thus, no aspect of this feature can be found to be necessary for statehood, given the debates that we are considering.⁸⁰

There is one last worry that we can raise regarding time, which we can take as a corollary to the claim that a state must have at least two people. If there were no time

⁷⁹ Though this final example may also provide a good reason to think that this feature is something that is hard to do without, given that Pakistan and Bangladesh later formed two distinct states.

⁸⁰ Notice, the issue of peoples could be utilized here to great effect. Something like a claim that it is the same state if it ranges over the same *people*.

requirement, then a state could come into existence for a moment only. Is there any reason to reject this and thereby conclude that a state must exist for some amount of time? Given that a state must somehow control some actions of those within the state's jurisdiction, then it would be odd to say that an entity existing for such a short period of time could be a state. This is because there would not be enough time for the state to actually control the actions of its citizens in some way. This suggests that there must be some minimal time that a state must exist, before actually being a state. The simplest command that a state could give would be a command to "stop." If we call whatever time it takes to give this command a moment, and then grant that it could take an additional moment for the command to be followed, then we seem to have a minimal time requirement of a couple of moments. Thus, a state is not a state after a split second, but it is after a couple of moments. Just as we saw with the size requirement, this is a very minimal requirement. It could be that, as an empirical fact, a state would need longer to achieve the requisite control. What seems clear is that a day is enough time, as is some time less than a day. What also seems clear is that there must be enough time for the state to give a command and have that command followed. The minimum time required for these steps seems to be the couple of moments that it would take to give a simple command and have that command followed.

Let us now turn to the second family of features that will be considered in this chapter: institutional features.

III. Institutional Features

Institutional features deal largely with the structural organization of the state. There are largely two features in this category. The first deals with general organization of the state and the second is the suggestion that a state should fulfill certain functional goals.

Governmental Apparatus

It is often the case that talk of states is confused with talk of institutional features. A common type of set-up along the lines of institutional features would involve something like the different branches of government within the United States. These are the institutions that see to the day-to-day operations of the state. There are numerous types of governments that could be suggested along this line of things and there does not seem to be a reason to adopt one type of governmental structure over another, but we get ahead of ourselves. We must first start by looking at the question of whether or not this feature is necessary for statehood.

Recall that states must have some level of control of those it governs. This means that the state must have some way of deliberating and making decisions that are to be judged the actions of the state. Moreover, the state must have some way of carrying out the dictates of the state. This means that the state will require some kind of law-enforcement personal that are authorized to use coercive force. All of this simply follows from the claims in the previous chapters that the state must issue coercively enforced dictates. Thus, we can conclude that there is a requirement for some type of institutional feature (law enforcement structures). This also explains why there is so much confusion between states and governments. The government is essentially the agent of the state, so

when people are referring to the state, there is frequently a complaint involved that is concerned with the government.

While it is clear that there must be some kind of institutional agency, it is worth briefly considering whether or not there is any requirement for a particular kind of governmental institution. To this question we must answer, with a few qualifications, that there is no specific kind of institution organization that is required. Two qualifications are important on this front. First, the institutional organization of the state must allow it to violate rights, though not necessitate that rights are violated. Second, it must have institutions (possibly the same institution as the rights violating possible institution) that enable the state to exert the required control. Any institutional structures that are capable of satisfying these two qualifications will suffice. For example, a monarchy would be just as capable of satisfying these requirements as a democracy similar to the one we have in the United States. Thus, while some type of governmental institutions will be necessary, this is actually very minimal.

Functional Goals

It is sometimes assumed that a state must fulfill certain functional goals. The clearest example of this type of feature is the idea that the state must, at a minimum, maintain the safety of its citizens. This idea can be seen in Nozick and some other libertarian political philosophers. One example of this is the night-watchman state. The basic idea is that the state's most basic function is to ensure the safety of the citizens of the state. This is also the most basic function of the state in both the Hobbesian and Lockean versions of

contractarian views.⁸¹ Alternatively, the state may be charged with settling market disputes (disagreement with contract interpretation). There are numerous other candidates as well. For example, a state may be charged with the function of educating citizens or of guaranteeing a minimum level of well-being.

Of course, many people complain that the state does not do enough for citizens, while others complain that the state does too much. This is often the debate that erupts in the United States over big government versus small government. Often this type of debate is one that is concerned with justice. However, we are not interested in engaging in this type of debate, but with the question of whether or not this feature is necessary for statehood. Is there anything in our debates that necessitates that states perform certain functional goals?

It may be quickly noted that the ideas put forth in the previous chapter can be interpreted as the functional goal of security (in the form of the monopoly of force). If this is the case, then, given that we concluded that the monopoly on the use of force was necessary, we can quickly conclude that the state must fulfill certain functional goals. The question becomes, must we conclude further that there are some more robust goals that need to be achieved? To this question, we must answer no.

One very plausible functional goal that could be argued for is the idea that the state must stabilize markets and settle contract disputes. However, some anarcho-capitalist-libertarians, Jan Narveson⁸² in particular, argue that the market could settle

⁸¹ For a further discussion, see Nozick's *Anarchy, State and Utopia*. See also Michael Levin's "A Hobbesian Minimal State," *Philosophy and Public Affairs*, vol. 11, no. 4, 1982, 338-353. See also Morris's Chapter 9 in *And Essay on the Modern State*.

⁸² For example see his "The Anarchist's Case," in *For and Against the State*, Sanderson and Narveson, eds..

such disputes, without the state. Moreover, there seems to be no reason to disagree with him. If there were some functional goal beyond protection that was required to ensure that states could violate rights, or if some functional goal was required to ensure that the state could exercise the requisite control, then we could conclude that such a function was necessary. The problem is that both of these requirements are satisfied by the features in the previous chapters. Thus, we are left with nothing further to conclude.⁸³ While there are debates about whether or not a state should fulfill some of the functions I have offered as examples (e.g., ensuring a minimum level of well-being), there is no debate about whether an entity can be a state without fulfilling these goals.

Thus, we can conclude that in the institutional features there must be some minimal type of governmental organization, though these need not be very robust. Moreover, there are no required functional goals beyond ensuring safety through the features discussed on the previous chapter.

IV. Doxastic Features

This family of features is a bit different than the others that we have considered. The other families have been intrinsic features of the state. This family consists partially of the beliefs of individuals about the state. Thus the question is, does the state require that others believe certain things about the state? However, it is also composed of a question

⁸³ Though we should also acknowledge the possibility of some functional goal being formulated that is a necessary feature. Given the sheer number of possibilities it would be impossible to rule them all out specifically here.

about certain claims of the state. Must the state be making a strong claim to be enhancing the live of the citizens in some way? Let us turn to the first of these features.

Internal Acceptance and External Recognition of Legitimacy

It could be argued that states need to have their legitimacy (e.g., justice, political authority, or sovereignty) recognized both by those internal to the state and those external to the state. Notice, this is very different from the moral features we looked at in the second chapter and from the idea of understanding the monopoly on the use of force in a *de jure* sense. Both of these options were rejected. However, what was rejected in those instances was the fact of the matter that a state have whatever moral feature is in question. Here we are concerned with the acceptance of the state as possessing the feature in question. Thus, the question is, must the state be believed to be legitimate by those inside the state, or accepted as legitimate by those outside the state? Let us be very clear, what is at issue is, must others believe that the state is either just, possessing of political authority, or morally unassailable (sovereign)?

Let us begin by looking at the issue of internal acceptance of the justice or political authority of the state. First, let us acknowledge that this feature would at a minimum be very useful for maintaining the state. If those internal to the state do not accept the state as legitimate in one of these ways, then citizens would be more likely to revolt against the state. Moreover, acceptance by those inside the state *may* allow for a more robust level of control than may be achieved simply through the use of force. Thus, this feature would be very useful for a state. The question is, is it necessary? This turns out to be a slightly tricky question. First, there is no need for this feature in terms of

ensuring that the state can violate rights. Nor is there any need for this feature, understood in a moral sense, for the debate about political authority. This is not the end of the story for this feature though. Let us consider it a bit further.

If we take our lessons from the last chapter and apply them here, then we need to make sure that the state can maintain control over what is taken to constitute the state (persons or geography). We might argue something like the following. Suppose that there was no citizen that accepted the legitimacy of the state. If this were the case, then it is difficult to see how the state could maintain the requisite control. It is tempting to claim that the control can occur simply through the use of forcible coercion. However, given that the agents of the state are also insiders to the state, the requisite control could not occur if those using forcible coercion, at least, did not accept the state as legitimate in some way. If this is correct, then it is true that there would need to be some *minimal* number of those inside the state which accept it as legitimate. However, this is only the case if we assume that people always have noble motivations. After all, it is easy to see how a monarchy might exist only to further its own selfish ends and may recognize that it behave immorally. The monarchy simply might not care. If this is the case, then as long as the state is strong enough militarily the state need not be accepted as legitimate by those inside the state. It is a contingent matter, of course, as to whether or not the state is strong enough to maintain control, however, it is not necessary.

Before looking at the recognition of legitimacy by those outside the state, we need to look at one other consideration for internal acceptance. John Simmons maintains what he calls “philosophical anarchism.”⁸⁴ This is roughly the denial that a state has political

⁸⁴ For example, see his *A Lockean Theory of Rights, or On the Edge of Anarchy*.

authority, but an acknowledgement that there may be many prudential reasons to go along with the state. This suggests a legitimacy that is based not on one of our three moral features from Chapter 2, but on a prudential feature. For example, it could be that the best way to have efficient markets is for the state to be involved. This would mean that there are prudential reasons to accept the legitimacy of the state, where legitimacy is understood as simply a claim of usefulness.

Is it necessary that a state be accepted as legitimate in this new sense? Again, we must answer no. This is for a similar reason as above. As long as the state can maintain the requisite control without this feature, then this feature is not necessary. This means that this feature is not necessary for statehood.

We must still consider the idea that the state must be accepted as legitimate by those outside the state. This is similar to a view held by Allen Buchanan in *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*. There Buchanan writes: “. . . the state is to serve in part as an instrument of justice. . .”.⁸⁵ However, Buchanan holds that states should use the recognition of other states as a tool (“an instrument”) to encourage those other states to behave in a more just fashion. If this is all that recognition of legitimacy amounts to, then it seems clear that this feature is not necessary for statehood. The only reason to take this feature as necessary for statehood is

⁸⁵ Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Oxford University Press, 2004, p74.

if it is required to maintain the requisite control from the previous chapter. It will be very helpful to receive the recognition of other states, but simply for prudential reasons.⁸⁶

Strong Claims to be Advancing the Common Good

It could be taken as necessary that a state make a strong claim to be advancing the common good. It is unclear how best to interpret this feature. First, it could be taken to simply be a claim on the part of the state. That is, does the state claim to be advancing the common good, whether or not it is? Second, we might interpret this to be a claim that the state is actually advancing the common good.⁸⁷ However, even though we can interpret this in either of these ways, we can dismiss both readings as a necessary feature of statehood for the same reason. It could be that there is a ruling family in a state, who has no desire, proclaimed or otherwise to be worried about the common good. As long as the family was strong enough militarily, then it would not matter if they had an admitted and actual focus only on themselves, even to the detriment of the common good. Thus, this feature would not be needed for the justice-anarchist to have a complaint about the state; nor would it impact the ability to control some actions inside the state, negating the need for the feature in the issue of state sovereignty.

We should admit that, as with many of the features discussed in this chapter, there is a prudential benefit to having this feature. It seems somewhat intuitive that if the state were actually advancing the common good, it would be easier to maintain control. This

⁸⁶ Buchanan would have states withhold recognition of other states in cases where are not just, thereby encouraging states to be just.

⁸⁷ If it is this second way, then this feature could be considered a functional goal.

is because there would be an easy justification of the state's existence; it is making things better for the citizens of the state.

V. Conclusion

We have now evaluated the last of the features to be evaluated in the current project. In the current chapter we have concluded that the following are necessitated by our debates. First, there is a minimum size; the state must contain at least two citizens. This is because states must be capable of violating rights. Second, states must exist for some small amount of time, a couple of moments. This is because the state must control the actions of its citizens in some way, and this seems to be the shortest time required for this. Third, there must be some kind of governmental apparatus. This is because the state must have some deliberation capacity and enforcement institutions (police) that do the controlling necessitated in the previous chapter.

Chapter Five: Concluding

I. Introduction

In this chapter I will simply sum up what has been discussed in previous chapters. I will begin by reminding the reader of the methodology employed. Following this there will be a quick reminder about our three debates, as well as the contributions made by the debates with regard to necessary features of statehood. We will then remind ourselves of the features we have rejected and the features on which our debates are silent. Lastly, we will briefly look at what seems to have emerged as the central feature of statehood.

II. Methodology

Attempting to become clear on any concept that is as widely used as the state is difficult. A natural starting place is to look at how those talking about the state use the term. The role that the state plays in debates about the state has been our guide throughout this project. That is, what features of statehood are those who are talking about the state talking about? Our guiding debates have been two versions of anarchism—one version concerning justice and the other concerning political authority—and state sovereignty in international relations. Thus, our question has been, is a particular feature required to make sense of one of our debates? If a feature is required to make sense of one of our debates, then it is a necessary feature for statehood.

Furthermore, we have rejected features that ended up trivializing a debate. For features that were not necessitated by one of our debates, but which did not trivialize a

debate, we have been silent. To be clear, this does *not* mean that such features are *not* necessary for statehood, only that we cannot draw such a conclusion *here*.

This methodology offers numerous benefits. First, it grounds anything that we have to say about what states are in the literature about states. What worries do philosophers have when talking about states? Thus, what has been said here is clearly grounded in practice. Second, working in this way helps to clarify the debates in question. What is it about states that the debates are really concerned with?

We should also point out a possibility that can result from the methodology employed. It could be that one debate requires that we reject a feature, because including the feature trivializes the debate; and yet, another debate requires that same feature for the debate to make sense. If this were the case, then we would have a clear indicator that the debates in question were working with different concepts of statehood. We have not encountered this result here, but expanding the debates under examination runs such a risk. I think that we do not have much to worry on this front however. While there are undoubtedly other debates that deal with the state, those we encountered here are the central debates involving the state.

Let us now remind ourselves of the debates that guided us in our analysis of the state.

III. The Debates

We looked at three debates about the state. The first two are different versions of anarchism. Recall, anarchism can roughly be summed up as the position that states are illegitimate. However, there are two ways (at least) to understand this claim. The first is

the claim that states are unjust and the second is the claim that states lack political authority. Our third debate is the issue of state sovereignty in international relations. Let us now turn to the first debate, the justice-anarchism position.

Justice-Anarchism

What we are calling justice-anarchism is the claim that most, or all, existing states are unjust. Justice can be understood in a number of different ways. Recall, we took it to be a matter of being rights respecting. This is not to be taken as an expectation that states are perfectly rights respecting; that would be too high of a standard. However, it should be taken to be a fairly robust notion. The important point here is that a state must be sufficiently just, whatever that turns out to be.

The contributions from this debate are: first, that a state cannot be required to be just, in order to be a state. Otherwise the anarchist position would be incoherent and the debate would be trivialized. Second, states must be forcibly coercive. This is because states must use a method of enforcing dictates that the anarchist will find objectionable and is capable of violating rights. Third, states must be at least two people in size. This is because states must be capable of violating rights and it is somewhat incoherent to claim that a person can violate their own rights.

Let us now turn to our second form of anarchism, authority-anarchism.

Authority-Anarchism

We are calling authority-anarchism the claim that most, or all, currently existing states lack political authority. An entity has political authority over some agent if the agent has

an additional moral obligation of some sort, simply in virtue of having been commanded by the entity with political authority.

The contributions from this debate are two-fold. First, this debate requires us to reject the claim that a state must have political authority, in order to be a state. Again, this is because requiring this feature would make the authority-anarchist position incoherent, and again the debate would be trivialized. Second, the debate over authority-anarchism requires that a state issue dictates. This is because without dictates it would not make sense to talk about political authority.

Let us now look at our final debate, state sovereignty in international relations.

State Sovereignty in International Relations

The debate over state sovereignty in international relations has been interpreted to basically be a debate about the moderate moral unassailability of states regarding their actions with regard to those within the state's jurisdiction. Moderate moral unassailability is the claim that others are not permitted to forcibly interfere with the actions of the state that involve no injustice against outsiders and no gross injustice against insiders. The main area where the feature is invoked is in the invocation of state sovereignty. Whenever a state makes the claim that it is a sovereign state, it is invoking moderate moral unassailability.

The major contributions from this debate are: first, states cannot be taken to be morally unassailable, simply in virtue of being states. This is because doing so would trivialize the debate on this issue. All states would, by definition be sovereign. Second, this debate requires that the state have control in some fashion over the affairs of the

state. This is due to the fact that issues of international relations—where the issue of sovereignty is invoked—would not make sense unless there were control over some area (which need not be geographic) if the state did not control some affairs of the state.

Third, that a state must have a monopoly on the use of force. This is because force is something that if allowed without state sanction it would nullify the control of the state.

Fourth, states must have a governmental apparatus of some sort. Without a governmental apparatus of some sort there would be no decisions made by the state, which is required if the state is to maintain some kind of control. And finally, that states must exist for some period of time that actually allows them to exert control, though this should be understood to be very minimal (a few moments). This is because the state must actually control the actions of those inside the state and this is the minimum time that would be required to accomplish some minimal level of control.

Let us now briefly remind ourselves of the features we rejected and why we did so.

IV. Some Rejected Features

Over the course of the dissertation we have rejected only three features as necessary for statehood. They were all mentioned briefly above, but they are worth revisiting. We rejected three potential moral features. First, we rejected the claim that states must be just. Second, we rejected the claim that states must have political authority. And finally, we rejected the claim that states must be morally unassailable. Our rejection of each feature is based on the fact that requiring the feature in question would end up trivializing the debate about whether or not a state has the feature in question. Furthermore,

requiring the moral feature in question confuses questions that should be kept separate. First, is the entity in question a state? Second, does the entity have the moral feature in question? For these reasons we have rejected these moral features as necessary for statehood.

We should be careful to not conclude that this rules out the necessity of any and all moral features. It could be that there is some other moral feature that we have not discussed that is necessary for statehood. However, we have examined the three standardly invoked moral features where the state is concerned.

Let us look briefly at some features that would require further argument in order to conclude that they are necessary.

V. Some Features Requiring Further Examination

We have found some features to be necessary for statehood because the features are required for statehood. However, there are a number of features that we could only conclude are not necessary in the context of our debates. This does not allow us to conclude that these features are not necessary for statehood; we simply cannot come to that conclusion here. However, if we found some other argument that concluded with the claim that these features are necessary for statehood, that would not automatically cause a problem for anything that has been said here.

The features that would require further argument if we wanted to include them as necessary are the following. First, that states use geography to draw jurisdictional lines. Second, that states be of some population greater than two (though we did conclude that a state must be at least two). Third, that states must exist for a period of time beyond a few

moments before being considered states (though we did conclude that a state must exist for at least a couple of moments). Fourth, that the state be geographically or temporally continuous. Fifth, that others have certain beliefs about the state. And last, that the state be advancing the lives of those within its jurisdiction.

It does not seem that there is anything on this list that would contradict anything that we found to be necessary over the course of the dissertation. To actually show this would require more argument than will be presented here, but either way, settling the issue of whether or not any of these features are necessary would require further debates about the state or a different methodology than we employed.

Let us now briefly consider the possibility that we have found a central feature for statehood.

VI. A Central Feature?

Throughout the course of the dissertation it seems as if a central notion of statehood has emerged. The central notion for statehood is control. That is, the state controls some actions of those inside the jurisdiction of the state. As it stands, this is vague. However, we can be a bit more specific about this control. First, states are forcibly coercive. This simply means that states use or threaten to use force to ensure that those within the jurisdiction of the state follow the state's dictates. This is *how* states control the actions of insiders. There is also a specific area of control that we have concluded is necessary for statehood, a state must have a monopoly on the use of force. This means that at least one type of action that a state must control is actions dealing with the use of force. This is one area of *what* a state controls. It is worth noting the double role played by force in

the control necessary for statehood. First, states use force as an enforcement tool. Second, states control the use of force by others within the jurisdiction of the state.

The final aspect of control just mentioned, that a state have a monopoly on the use of force, is the feature typically taken to be the central feature of statehood. As we saw in Chapter 3, this is really a feature concerned with control of a specific type of actions—actions involving force. Thus, while it is usually taken to be the core feature of statehood, it is actually subordinate to the general notion of state control over the actions of those within the jurisdiction of the state.

Notice further that two of the other three features found to be necessary—that states have a governmental apparatus, and that states exist for some minimal time—are a direct result from the necessity of control. That is, in order for the state to have the requisite control, it must both have a governmental apparatus and exist for a short period of time. The third feature, that a state be of a certain size, could be argued from the claim that states are forcibly coercive—the way that a state controls the actions of its citizens. That is, it is only required that states be a certain size, because of the requirement of how states control the actions of those within its jurisdiction. Thus, it seems like these features are subordinate to the notion of control on the part of the state. That is, these other features seem necessary only in so far as they are required for control. Thus, it seems as if control is the core notion of statehood.

VII. Conclusion

This dissertation has been concerned with an analysis of the state. Typically, such a process would involve an examination of the concept to discover both necessary and

sufficient conditions. We have undertaken only one half of the project, and even that has not been completed. There are other debates that could be examined for further necessary conditions. This gives us a clear path for future research. Are there any contributions from other debates? Are the necessary features discovered here sufficient for statehood? Or are there further features required? These are questions that are left unanswered here, but which are worth further study.

BIBLIOGRAPHY

- Aristotle. *Politics*, Jowett trans., *The Complete Works of Aristotle*, Revised Oxford Translation, vol. 2, Jonathan Barnes, ed., 1984.
- Asmis, Elizabeth. "The State as Partnership: Cicero's Definition of *Res Publica* in His Work On the State" *History of Political Thought*, vol. 25, 4 (2004): 569-598
- Buchanan, Allen *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Oxford University Press, 2004.
- Dunleavy, Patrick. "The State" *A Companion to Contemporary Political Philosophy*, Goodin, Robert and Pettit, Philip, eds., Blackwell Publishing, (1993): 611-621.
- Edmundson, William. *Three Anarchical Fallacies*, Cambridge University Press, 1998.
- Ferguson, Yale and Mansbach, Richard. *The State, Conceptual Chaos, and the Future of International Relations Theory*, University of Denver Press, 1989.
- Frost, Melvyn. *Ethics in International Relations*, Cambridge University Press, 1996.
- Hinsley, F. H.. *Sovereignty*, 2nd ed., Cambridge University Press, 1986.
- Hobbes, Thomas. *Leviathan*, 1651. Oxford World's Classics edition, J.C.A. Gaskin ed., Oxford University Press, 1996.
- King, Martin Luther, Jr.. "Letter from a Birmingham Jail" *The Right Thing to Do: Basic Readings in Moral Philosophy*, 4th ed., Rachels and Rachels eds., McGraw Hill Companies, 2007.
- Levin, Michael. "A Hobbesian Minimal State," *Philosophy and Public Affairs*, vol. 11, no. 4 (1982): 338-353.
- Locke, John. *Second Treatise on Government*, 1690. Cambridge Texts in the History of Political Thought edition, *Locke: Two Treatises of Government*, Laslett, Peter ed., 1988.
- Morris, Christopher, *An Essay on the Modern State*, Cambridge University Press, 1998.
- Narveson, Jan. "The Anarchist's Case" *For and Against the State*, Sanders and Narveson eds., 1996.
- Nine, Cara. "A Lockean Theory of Territory" *Political Studies*, 56 (1), (2008): 148-165.
- Nozick, Robert, *Anarchy, State, and Utopia*, Basic Books Inc., 1974.

- Passerin d'Entreves, Alexander. *The Notion of the State*, Oxford University Press, 1967.
- Philpott, Dan. "Sovereignty" *Stanford Encyclopedia of Philosophy (Summer 2003 Edition)*, Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/sum2003/entries/sovereignty/>.
- Roark, Eric. "Nozick's Failed Defense of the Just State" *Libertarian Studies*, vol. 21, No. 1 (2007): 3-37.
- Rothbard, Murray. "Property and Exchange" *Left-Libertarianism and Its Critics: The Contemporary Debate*, Peter Vallentyne and Hillel Steiner, eds., Palgrave, 2000.
- Russert, Bruce M. and Starr, Harvey. *World Politics: The Menu for Choice*, W. H. Freeman and Company, 1981.
- Simmon, John. *Moral Principles and Political Obligations*, Princeton University Press, 1979.
- _____. "Philosophical Anarchism" *For and Against the State*, Narveson, Jan and Sanders, John eds., Rowman and Littlefield, 1996.
- _____. *A Lockean Theory of Rights*, Princeton University Press, 1992.
- _____. *On the Edge of Anarchy: Locke, Consent and the Limits of the State*. Princeton University Press, 1993.
- Steiner, Hillel. "May Lockean Donuts Have Holes?: The Geometry of Territorial Jurisdiction" unpublished.
- Vallentyne, Peter. "Libertarianism and the State" *Social Philosophy and Policy*, 24 (2007)
- _____. "Distributive Justice," *Companion to Contemporary Political Philosophy*, Robert Goodin, Philip Pettit, and Thomas Pogge, eds. Blackwell Publishers, 2007.
- Weber, Max. "Politics as a Vocation," *From Max Weber: Essays in Sociology*, H. H. Gerth and C. Wright Mills trans. and eds., Oxford University Press, 1946.
- Wertheimer, Alan. *Coercion*, Princeton University Press, 1987.
- Wolff, Robert. *In Defense of Anarchism*, Harper and Row, Publishers, Inc., 1970.

VITA

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