

**RETHINKING REVOLUTION:  
REVIEWING ARGUMENTS AGAINST REVOLUTION<sup>1</sup>**

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**1. Whither Revolution?**

For almost two generations, analytic philosophy has not seen much substantial work on the justifiability of revolution.<sup>2</sup> Instead, serious philosophical reflection about revolution has been confined primarily to exegesis of historical texts.<sup>3</sup> When contemporary philosophers do engage non-exegetically with the question of the justifiability of revolution, as philosophical anarchists recently have, they usually neglect both (a) important new political, and especially juridical, structures that have emerged in the international political order since World War II and (b) recent developments political theory. In particular, the lack of any systematic account of the connections between revolution and sophisticated, contemporary legal and political theory, which has advanced quite rapidly at least since the publications of Hart's *The Concept of Law* and

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<sup>1</sup> I thank XXXXXX and XXXXXX for illuminating discussion and comments.

<sup>2</sup> A notable exception is Gregory Kavka's Hobbesian defense of revolution in Gregory Kavka, *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986), Section 4-6. Before that, we must look to Kai Nelson, "On Justifying Revolution" 37 *Philosophy and Phenomenological Research* 4 (1977), pp. 516 – 532.

<sup>3</sup> For a representative example, see Ryan W. Davis, "Is Revolution Morally Revolting?" *Journal of Value Inquiry* 4 (2004) 38, pp. 561-568.

Rawls's *Theory of Justice*,<sup>4</sup> has left our current grasp of both the moral significance of revolution and its conceptual boundaries mired in a political imagination somewhat constrained by the historical and political exigencies of the early Enlightenment. Consequently, we have inherited antiquated and blunt tools for morally evaluating revolution and are left able to form only rough retrospective judgments both about the justifiability of past revolutions and about whether current or future conditions warrant revolution. It may be time to rethink revolution.

What has prevented us from bringing the philosophical theory of revolution into the Twenty-First Century? Perhaps the most significant roadblock is the widely held judgment that revolution is never justifiable except under obvious circumstances not worth theorizing about. This article is a sketchy but critical review of the arguments for this judgment, which I call the Standard View of revolution. I present four canonical defenses of the Standard View and then critically evaluate them, concluding both that the Standard View is highly dubious and that we ought to re-open inquiry into the justifiability of revolution. In that spirit, in the final section of the paper I propose two novel approaches to justifying revolution.

## **2. Revolution and Contemporary Philosophy and Politics**

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<sup>4</sup> This paucity of engagement with the contemporary versions of the question of the justifiability of revolution is especially striking when juxtaposed against the outpouring of philosophical inquiry into the morality of war, humanitarian intervention and terrorism, given the similarities between the moral perils of these violent endeavors and the moral perils of revolution. See, e.g., Michael Walzer, *Just and Unjust Wars* (NYC: Basic Books, 1977).

Before discussing the Standard View of revolution and critiquing it, let us consider how recent historical developments and philosophical advancements invite us to rethink revolution.

First, emancipation from illegitimate coercion has been, traditionally, the sole legitimate ground for revolution, but, at least since Rawls published *Theory of Justice*, whether a society meets requirements of egalitarian principles of distributive justice has been of central moral concern.<sup>5</sup> Is it possible that distributive injustice could ground a liberty-right to engage in revolutionary activity?<sup>6</sup> This question seems especially pressing given the fact that global distributive injustice has reached proportions difficult to fathom: despite some recent decreases in global inequality, as of early 2007 more than 2.5 billion people live on less than \$2/day, with 985 million of them living on less than \$1 day.<sup>7</sup> Inequality in industrialized nations has increased.<sup>8</sup> Despite this, we lack

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<sup>5</sup> The *égalité* for which the *sans-cullote* fought in the French Revolution was equal treatment by the state and not equal distribution of goods. The Lockean “proviso” allows necessity to justify violating the law, but only in order to get enough to survive. Once one has stolen bread so as to avoid starving, one cannot then on one’s full stomach lead a revolution.

<sup>6</sup> Rawls never systematically addressed the justifiability of revolution.

<sup>7</sup> *World Development Indicators 2007* published by the World Bank and accessed at <http://go.worldbank.org/3JU2HA60D0> on May 30, 2007.

<sup>8</sup> For example, after a brief downturn due to the stock market crash, the rate of increase in inequality in wealth in the US is positive. The richest one percent of U.S. households owns 34.3 percent of the nation's private wealth, more than the combined wealth of the bottom 90 percent (the top ten percent owns 71.2% of the nation’s private wealth), and the top one percent also owns 36.9 percent of all corporate stock. See the Economic Policy Institute’s *State of Working*

systematic analyses of the relationship between many different morally salient political conditions and the right to engage in revolution. At the very least, we must explore whether there are, *pace* Rawls's own view, trade-offs between distributive justice, liberty and consent to determine whether, for example, it would be objectionable to rebel against a dictatorship that rigidly enforced, say, the difference principle even if there is a large threat that in the replacement state, no matter how democratic, there would be extreme and unfair inequality. Or, if a presumption in favor of political liberties makes such a trade-off unacceptable, then would a revolution by the desperately poor and financially disenfranchised in a democracy be justifiable?<sup>9</sup> We have few sophisticated resources with which to work through such questions.

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*America 2006/2007* report, available at <http://www.stateofworkingamerica.org/> (accessed May 30, 2007).

<sup>9</sup> That was not Marx's view. Marx's justification for revolution, especially in his early writings, was not that the distributive inequalities were unjust or that the capitalists were stealing what wage-laborers owned (namely their labor-power). Rather, Marx's criticism of capitalism was that the capitalist mode of production and its concomitant property relations both radically stunted the human capacities of the proletariat and objectionably limited the freedom of the proletariat. Thus, revolution against capitalism is justified by appeal to both an Aristotelian ethical perfectionism and a straightforward Enlightenment commitment to freedom. For a clear statement by Marx of his emphasis on freedom and not on a fair distribution of goods, see Karl Marx, "On the Jewish Question" in Robert C. Tucker, ed., *The Marx-Engels Reader*, 2<sup>nd</sup> Edition (NYC: Norton and Company, 1978), pp. 26 – 53. Note that Hannah Arendt identified Marx's focus on freedom over equal distribution of goods in Hannah Arendt, *On Revolution* (NYC: Penguin, 1963), pp. 61 – 65.

Second, at least since the collapse of the Soviet Union, international political and legal institutions such as the UN and the International Criminal Court have taken on substantially higher profiles. The single most important feature of this globalization of political morality, though, is the rise of the international juridical regime of human rights based upon the 1948 Universal Declaration of Human Rights, which reached maturity with the emergence of a thoroughgoing and sophisticated model of global political theory grounded in contemporary ethical cosmopolitanism.<sup>10</sup> Amongst Anglo-American political philosophers, these changes have been reflected by, for example, the recent debate about whether traditionally state-centric moral and political principles, such as principles of distributive justice, apply globally.<sup>11</sup> Despite this, there has not been systematic

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For an alternative explanation of Marx' justification for revolution, see G.A. Cohen, *Self-Ownership, Freedom and Equality* (NYC: Cambridge University Press, 1994), chapter 6.

<sup>10</sup> See the *Universal Declaration of Human Rights*. For a collection of important essays on cosmopolitanism, see Gillian Brock and Harry Brighouse, *The Political Philosophy of Cosmopolitanism* (NYC: Cambridge University Press, 2005). See also the second set of citations in footnote 11.

<sup>11</sup> For defenses of the state-centric view, see, e.g., John Rawls, *Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), Michael Blake, "Distributive Justice, State Coercion, and Autonomy," *Philosophy and Public Affairs* 30 (2001): 257 – 96, Thomas Nagel, "The Problem of Global Justice," *Philosophy and Public Affairs* 33 (2005): 113 – 47, and Andrea Sangiovanni, "Global Justice, Reciprocity and the State," *Philosophy and Public Affairs* 35 (2007): 3 – 39, as defending the primacy of the state. For defenses of the globalist view, see, e.g., Charles Beitz, *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979), Thomas Pogge, "Cosmopolitanism and Sovereignty," *Ethics* 103 (1992): 48-75 and Allen

theorizing of revolution within the context of these developments of international quasi-sovereign institutions, the emergence of a globalist brand of political philosophy, and, most importantly, the international, institutionalized human rights regime.<sup>12</sup>

Third, the conceptual accounts of sovereignty and revolution employed by early modern political theorists employed by most Anglo-American analytic philosophers when discussing revolution are now out of date. Early modern theorists from Grotius to Kant conceived of sovereign political institutions as rigidly centralized authority structures – usually monarchies but also republics – that were the sole governors of well-defined territories.<sup>13</sup> Consequently, the paradigmatic case of revolution is rebels seeking to overthrow either a highly centralized political institution, usually on the model of an absolute monarch or tyrant, which claims authority over a clearly bounded territory. As many political philosophers have noted, though, while this model of sovereignty, which is generally referred to as the Westphalian nation-state, remains the dominant form of political order today, it is no longer the only game in town.<sup>14</sup> As mentioned in the

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Buchanan, “Rawls’s *Law of Peoples*: Rules for a Vanished Westphalian World,” *Ethics* 110 (2000): 697 – 721.

<sup>12</sup> The closest we have is Allen Buchanan’s discussion of secession in his *Secession: The Legitimacy of Political Divorce* (Boulder, CO: Westview Press, 1991).

<sup>13</sup> This partially explains why the debate about divided sovereignty was so heated: only if sovereignty is viewed as paradigmatically a rigidly centralized authority structure does its being cloven into two or three branches appear to be a threat to its survival.

<sup>14</sup> See citations in footnote 11. See also Allen Buchanan, *Justice, Legitimacy and Self-Determination: Moral Foundations for International Law* (NYC: Oxford University Press, 2004).

previous paragraph, recent historical developments, which Kant only foggily imagined in *Perpetual Peace* and which Marx and Engels slightly more accurately forecast in the *Communist Manifesto*, involve the emergence of an international economic and political order including quasi-sovereign institutions such as the European Union, the United Nations, NATO, the International Criminal Court, the World Bank and the International Monetary Fund. These international institutions do not fit the model of highly centralized sovereigns governing well-defined territories. Rather, they are inchoate forms of an entirely new form of sovereignty – an increasingly distributed and, in some cases, even decentralized form of sovereignty. In short, contemporary sovereignty is somewhat distinct from traditional forms of sovereignty. Additionally, extra-legal movements against this contemporary form of sovereignty are neither impractical nor inconceivable – globalized resistance movements have already emerged in response to the global political and economic order. Such movements may be revolutionary, even though they would be quite distinct from traditional forms of revolution understood as local rebels revolting against the highly centralized state. So, as sovereignty has changed to include political and legal regimes undreamt of by Hobbes, Locke and Kant, revolutions have changed accordingly.

These three brief reflections recommend a rehabilitation of philosophical engagement with the question of whether revolution can be justified. But, a renewed engagement with the problem of revolution appears to be stymied by the Standard View of Revolution, namely the view that revolution is, as a rule, unjustifiable with whatever

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Others have theorized global capital as a kind of world sovereign. See Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000).

few exceptions being so blatantly obvious as to be unworthy of theoretical inquiry.<sup>15</sup>

Consequently, there has been, for all intents and purposes, no sophisticated philosophical reflection about any of the three sets of issues raised above. So, I now turn to an overview of the Standard View.

### 3. The Standard View of Revolution

#### a. Introduction

First, let us give a definition of revolution that is neutral with respect to the issues raised in the previous section. I shall do so by contrasting it with reform. Reform aims to change institutional rules or structures but without abandoning a commitment to the authority of the target institution's rules. Revolution, on the other hand, which might share some of the same aims as reform (e.g., widespread and systematic change), proceeds without any practical commitment to the rules, i.e., without any acceptance of the authority of the rules of the institution they aim to overthrow.<sup>16</sup> This is what it means to say that revolutionary activity is "extra-legal." Furthermore, because revolutionary

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<sup>15</sup> This is the view of most philosophical anarchists. For an overview, see A. John Simmons, "Philosophical Anarchism" in A. John Simmons, *Justification and Legitimacy* (NYC: Cambridge University Press, 2001), pp. 102 – 121.

<sup>16</sup> For more on what it is to treat a rule as an authority, see Joseph Raz, *Practical Reasons and Norms*, 2<sup>nd</sup> Edition (NYC: Oxford University Press, 1999). For another view, see Stephen Perry, "Second-Order Reasons, Uncertainty and Legal Theory," *Southern California Law Review* 62 (1988 – 89): 913 – 994. The revolutionaries could get *epistemic* guidance from the rules, though. For more on the distinction between epistemic and practical guidance, see Scott Shapiro, "On Hart's Way Out," *Legal Theory* 4 (1998): 469 – 507.



activity is always eventually a public performance and so always commands subjects' attentions, revolutionary activity is a *spectacle* of rejection of the authority of the governing institution.<sup>17</sup> Reform, on the other hand, expresses no such rejection of the authority of governing institutions. Thus, unlike reform, revolution's spectacular rejection of the authority of shared, public rules can be read by observers as carrying a message of total rejection of the authority of governing institutions and even the rule of law. Let us define revolution, then, as (i) aiming at profound and systematic changes in governing socio-political institutions including individual regimes, constitutional orders, civil societies, established systems of production and international quasi-sovereign bodies; and (ii) involving spectacular, reform-precluding rejections of the authority of both socio-political institutions and their posited rules as means to the end specified in (i).

The standard view of revolution, so defined, is the following:

[THE STANDARD VIEW] (i) *If some political authority is legitimate, then revolution against it is not justifiable, and (ii) if either no political authority could*

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<sup>17</sup> Interestingly, Kant spoke approvingly of the spectacle of the French Revolution:

...this [French] revolution, I say, nonetheless finds in the hearts of all spectators (who are not engaged in the game themselves) a wishful participation which borders on enthusiasm, the very expression of which is fraught with danger; this sympathy, therefore, can have no other cause than a moral disposition in the human race. (Immanuel Kant, "An Old Question Raised Again: Is the Human Race Constantly Progressing?" in Immanuel Kant, *Kant on History*, edited by Lewis White Beck (NYC: Macmillan, 1963), p. 85)

*be justifiable<sup>18</sup> or merely the political authority around here is not legitimate, individuals (and collectives) still do not have a liberty-right to revolution except in obvious and uncontroversial cases.*

The exception at the end of the Standard View is meant to highlight the fact that today no one defends an *exceptionless* rejection of a right to revolution. The discussion in Section 2 above suggests, though, that contingent historical developments and advances in political theory have so sufficiently complicated the issue that it is neither obvious nor uncontroversial what the conditions are in which revolution is justified. At the very least, those who believe that conditions in which revolution is justified are obvious and uncontroversial owe us a story that incorporates the three developments outlined in Section 2. We have no such story. Regardless, in order to avoid the charge of stacking the deck in *favor* of a right to revolution, I am willing to accept an emendation to this formulation of the standard view such that this exception clause is removed, thereby making the Standard View a view that rules out justified revolution without exception. This, of course, merely crystallizes further the relevance of this paper's project. Consequently, the central thesis of the Standard View ends up being contained in the first clause and the first part of the second clause, namely the clauses according to which revolution is always unjustifiable. So, when I discuss the Standard View, I am concerned only with this central thesis. In the next section, then, I review four standard justifications of the Standard View.

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<sup>18</sup> See Robert Paul Wolff, *In Defense of Anarchism* (NYC: Harper and Row, 1970).

## **b. Legitimate Political Authority**

We can locate two broad ways in which legitimate authority gives rise to prohibitions on revolution.<sup>19</sup> Both of these characterizations can be understood independently from the myriad proposals stipulating the conditions that must be met for a political institution to be legitimate. For, the source of the legitimacy does not matter so much as does the moral protection that legitimacy confers on a political institution. Thus, we shall assume for the purposes of discussion in this section that the revolutionaries' target institution is legitimate for *whatever* reason (e.g., it enjoys the consent of the governed, it is just, it is efficient, it embodies the values and traditions of the community, etc.<sup>20</sup>), and then ask what moral prohibitions on revolution might follow from this fact.

One view is that the legitimate authority of a political institution renders authoritative for all its subjects both the institution's constitution and its posited laws. If the constitution and the laws are authoritative, then everyone has either very weighty or overriding moral reason to obey the constitution and the laws (e.g., everyone might have a duty to obey the law). But, revolution necessarily involves the intentional and spectacular transgression of the constitution and these laws. Consequently, absent any

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<sup>19</sup> The line of argument against revolution by appeal to legitimate authority is often associated with John Locke, who ironically was a defender of the right to revolution.

<sup>20</sup> I include here appeals to principles of fair play as grounds for ruling out revolution. Such principles entail that people have duties to do their fair share only if the cooperative scheme is a legitimate one. For more, see John Rawls, "Legal Obligation and the Duty of Fair Play" in John Rawls, *Collected Papers*, pp. 117 – 129. For objections to such a principle grounding obligations to obey the law, see A. John Simmons, "The Principle of fair Play" in Simmons, *Justification and Legitimacy*.

reasons overriding or outweighing the legitimate authority of the political institution (reasons, it is presumed, that are very hard to come by), subjects are prohibited from engaging in revolutionary activity. I put this all in terms of weighty or overriding reasons because it need not be the case that the authority of a political institution generates duties of obedience or loyalty, although this may be the case. Rather, this is a weaker view according to which the authority of the institution the institution's constituting and posited rules sources of morally authoritative reasons for the subjects of that institution.

One might deny that the mere fact of the legitimacy of a political institution is sufficient to make the rules posited by that institution authoritative. One might instead argue that all persons have a natural duty to support legitimate political institutions. The classic statement of this position is from John Rawls, who, at least in *Theory of Justice*, takes the legitimacy of a political institution to depend upon whether it is a just institution, i.e., whether it realizes his two principles of justice, (thus, he refers to it as a natural duty to uphold *just* institutions). The two components of that duty are as follows:

...first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves.<sup>21</sup>

The most straightforward grounds ruling out revolution here are the natural duties to comply with just institutions, which quite obviously rules out revolting against just

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<sup>21</sup> John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 351.

institutions.<sup>22</sup> But, the second component of the duty is relevant as well, since it strengthens, at least in spirit, the prohibition on dismantling just institutions. For, if our duty is to establish, when we can, just institutions where there are none, it surely cannot be the case that we can *dismantle* just institutions that already exist, especially if this would create any barriers whatsoever to establishing just institutions where there are none.

In both these cases, we move quickly from the legitimacy of the authority of the political institution to moral reasons prohibiting revolutionary activity. Thus, we have the first conjunct of the Standard View. Let us now turn to the breach, when the political institution is not a legitimate authority.

### **c. The Consequentialist Rejection of Revolution**

Consequentialist grounds for the Standard View are the grounds most commonly appealed to in arguments against revolutions against political institutions that lack legitimate authority. Such arguments have an impressive pedigree, having been, for

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<sup>22</sup> Compliance with an institution is not necessarily identical to the institution's posited rules being authoritative or subjects having a duty to obey those rules. For example, Rawls defends a robust form of civil disobedience within the context of the natural duty to uphold and comply with just and efficient institutions. See John Rawls, "The Justification of Civil Disobedience," in John Rawls, *Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), pp. 176 – 189.

example, put forward persuasively by Enlightenment political theorists such as Hobbes and David Hume.<sup>23</sup> Hume, for example, wrote that

...there is nothing but a great present advantage, that can lead us to rebellion, by making us over-look the remote interest, which we have in the preserving of peace and order in society. But tho' a present interest may thus blind us with regard to our own actions, it takes not place with regard to those of others; nor hinders them from appearing in their true colours, as highly prejudicial to public interest, and to our own in particular.<sup>24</sup>

A consequentialist rejection of revolution may not be surprising coming from the cautious David Hume or the arch-positivist Hobbes. But, even that greatest of natural rights theorists, Hugo Grotius, argued that, in the face of terrible abuses by a sovereign,

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<sup>23</sup> The overall structure of Hobbes' justification of the state is consequentialist. His argument that revolution would be contrary to right reason in particular cases is also consequentialist. For a brief recapitulation of Hobbes' views, with some caveats, see Gregory Kavka, *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986), pp. 279 – 284. For an alternative view, see Sharon Lloyd, *Ideals as Interests in Hobbes' "Leviathan": the Power of Mind over Matter* (NYC: Cambridge University Press, 1992). The relevant passages in Hume's work are in David Hume, *A Treatise of Human Nature*, edited by L. A. Selby-Bigge and revised by P. H. Nidditch (NYC: Oxford, 1978), book 3, part 2, section 8, pp. 539 – 549.

<sup>24</sup> Hume, *A Treatise of Human Nature*, p. 545.

revolution must still be ruled out since “the Resistance would infallibly occasion great Disturbance in the State, or prove the Destruction of many Innocents.”<sup>25</sup>

An important contemporary proponent of this argument is A. John Simmons, who is a prominent philosophical anarchist. Simmons argues that all existing states are illegitimate political authorities and so, he says, no one is under a general political obligation to obey the laws of any state. But then, Simmons is quick to point out that this does not justify mass disobedience of the law. For, it is quite often the case that “our illegal actions would cause widespread suffering, unhappiness, and frustrated reasonable actions.”<sup>26</sup> And this fact, Simmons concludes, “surely makes these [law-breaking] actions morally suspect, even if their being merely illegal does not.”<sup>27</sup> This, in turn,

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<sup>25</sup> Hugo Grotius, *De Jure Belli ac Pacis* 1.4.7.2. It was the privilege of *other* sovereigns to rescue the subjects of an illegitimate sovereign from the despotism under which the subjects suffered. Grotius was an absolutist, but he never went as far as Jean Bodin in defending an extreme form of absolutism.

<sup>26</sup> Simmons, “Philosophical Anarchism,” p. 114.

<sup>27</sup> Simmons, “Philosophical Anarchism,” p. 114. Simmons prefaced this by saying that “[e]ven... if the law has no moral standing, the conduct required by law is often morally obligatory.” (*id.*) He later does acknowledge that anarchists “do allow for justifiable disobedience in many cases...” (*id.*, p. 115). For example, Simmons does not utterly reject resistance to the state: disobedience that does not cause “widespread suffering, unhappiness, and frustrated reasonable actions” is acceptable. Thus, “many distinctively political legal requirements – such as payment of certain taxes or military service – along with many paternalistic and moralistic laws and laws creating victimless crimes may be disobeyed without moral impropriety.” (*Ibid.*, p. 115) Revolution might be out, but tax evasion and getting high remain permissible.

entails the strong conclusion that “[revolutionary] acts aimed at producing massive and violent social upheaval [are] *morally indefensible*.”<sup>28</sup> So, even though no one has a duty to obey any state’s laws, and even though every state that is the author of these laws is illegitimate, Simmons concludes anarchists must reject the “revolutionary stance” in favor of (more-or-less) legal reform.

The claims that revolution is always “prejudicial to public interest,” that it always causes “great disturbance... [and] the destruction of many innocents,” or that it always “causes widespread suffering, unhappiness, and frustrated reasonable actions” are very strong. The consequentialist defense of the Standard View can succeed without depending upon the truth of such strong claims. Instead, one could argue that revolutions are also almost impossible to predict, much less control once they have been initiated.<sup>29</sup> And, at least some revolutions can be remarkably violent and oppressive. So, even well-meaning revolutionaries – revolutionaries whose aim is to overthrow an oppressive, illegitimate regime – run the risk of creating a hell on earth. That is, there is a very high probability that the revolutionaries will not be able to shape the revolution they start and consequently a significant possibility that the revolution will suffer what Leon Trotsky dubbed a “Thermidorian degeneration.” Thus, revolutionaries always run a risk that, once they initiate a revolution over which they are likely not to have any control, they will

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<sup>28</sup> Simmons, “Philosophical Anarchism,” p. 115 (italics added).

<sup>29</sup> For a review of the epistemological constraints on predicting and explaining revolutions, see Charles Kurzman, *The Unthinkable Revolution in Iran* (Cambridge, MA: Harvard University Press, 2004).



cause a hell on Earth. This risk of great disaster is so great that the moral default rule requires not taking that risk at all.<sup>30</sup>

Importantly, this objection does not depend upon the claim that revolutions *always* cause misery. Rather, it depends upon the claim that revolutionaries have little reason to believe that they can control the course of the revolution they seek to initiate and that revolutionaries have reason to believe that if things get out of control, things might get morally very ugly. Given these risks, certain severe moral restrictions on behavior are warranted, namely a default rule prohibiting revolutionary activity. Would-be revolutionaries ought instead attempt to seek change through methods both over which they have more control and that would be less likely to yield morally disastrous outcomes if control was lost.

In summary form, the consequentialist defense of the Standard View is:

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<sup>30</sup> This suggests a different line of reasoning similar to one yielding a moral requirement to purchase automobile liability insurance. The likelihood of causing a serious car accident is tiny, but if one does cause an accident, it might be disastrous. So, one is required to carry the burden of liability insurance so that one can do what corrective justice requires in the case of a terrible car accident. Since there is no such thing as liability insurance for the consequences of starting a revolution that gets out of one's control, one would never be able to correct the injuries caused by such a Thermidorian degeneration. Thus, the default moral rule is never to start a revolution. This reasoning is not purely consequentialist since it appeals to corrective justice, which is anything but a consequentialist doctrine.

1. There is a high probability that the consequences of revolutionary activity against an illegitimate institution will be far worse than the conditions imposed by the institution.
2. On the other hand, there is a high probability that doing nothing or engaging in legal reform will not cause “widespread suffering, unhappiness, and frustrated reasonable actions.”
3. So, since we ought to act in a way that will most likely generate the best consequences, revolutionary activity is impermissible, even when the targeted political institution is illegitimate.

#### **d. The Kantian Rejection of Revolution**

Today, Kant is perhaps the most well-known defender of the Standard View, but his argument for that view is complex and disputed.<sup>31</sup> Thus, we must review his argument in slightly greater detail than the consequentialist objection (even though what follows remains woefully inadequate).<sup>32</sup> Additionally, critically engaging with Kant’s reflections

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<sup>31</sup> Kant’s objections to revolution are complex, especially given his public admiration of the French Revolution. For an overview, see Christine Korsgaard, “Kant on the Right of Revolution” in *Reclaiming the History of Ethics: Essays for John Rawls*, Andrews Reath, Barbara Herman and Christine Korsgaard, eds. (NYC: Cambridge University Press, 1997), pp. 297 – 328. See also Thomas E. Hill, Jr., “Questions About Kant’s Opposition to Revolution,” 36 *Journal of Value Inquiry* (2002): 283 – 298, and Ryan W. Davis, “Is Revolution Morally Revolting?”

<sup>32</sup> For a discussion of Kant’s defense of political authority, see Arthur Ripstein, “Authority and Coercion” 23 *Philosophy and Public Affairs* 1 (2004), pp. 2 – 35.

on revolution yields some exciting clues about how to proceed in contemporary reflections about revolution – clues that I shall explore below in Sections Three and Four.

Let us first consider a forceful endorsement by Kant of the Standard View:

...all resistance against the supreme legislative power, all incitement of subjects to actively express discontent, all revolt that breaks forth into rebellion, is the highest and most punishable crime in the commonwealth, for it destroys its foundation. And this prohibition is absolute, so that even if that power or its agent, the nation's leader, may have broken the original contract, thereby forfeiting in the subject's eyes the right of legislator, since he has authorized the government to proceed in a thoroughly brutal (tyrannical) fashion, the citizen is nonetheless not to resist him in any way whatsoever.<sup>33</sup>

Kant gets to this conclusion by arguing first that all persons have an innate right to freedom, conceived of as a right to choose to pursue certain ends. Furthermore, all persons can have, at least provisionally, some property rights in things (see §§15, 44).<sup>34</sup> But, in the state of nature, i.e., a state without an effective political authority, there is no

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<sup>33</sup> Immanuel Kant, "On the Proverb 'That May Be True in Theory but It is of No Practical Use' in *Perpetual Peace and Other Essays on Politics, History and Morals*, translated by Ted Humphrey (Indianapolis, IN: Hackett, 1983), p. 79.

<sup>34</sup> All citations in this section, unless otherwise noted, are from Immanuel Kant, *The Metaphysics of Morals*, translated and edited by Mary Gregor (NYC: Cambridge University Press, 1996). I will give just the section numbers unless otherwise necessary.

public right. This makes for a cacophony of multiply incompatible claims of right leveled by each against each within the state of nature. Thus, Kant writes:

No one is bound to refrain from encroaching on what another possesses if the other gives him no equal assurance that he will observe the same restraint towards him. No one, therefore, need wait until he has learned by bitter experience of the other's contrary disposition; for what should bind him to wait till he has suffered a loss before he becomes prudent, when he can quite well perceive within himself the inclination of human beings generally to lord it over others as their masters... [therefore] one is authorized to use coercion against someone who already, by his nature, threatens him with coercion. (§42)

Kant's point here is that in the state of nature, there are no clear *moral* prohibitions on encroaching on what another possesses. It is therefore neither just a matter of the dark, greedy hearts of human beings leading people to attack one another nor just a matter of an epistemological deficit regarding others' intentions leading people to fall into prisoner's dilemmas. Rather, "each has a right to do *what seems right and good to it* and not to be dependent upon another's opinion about this." (§44) The problem, then, is that there are radically conflicting *moral* claims, not deficiencies in human nature

This becomes especially problematic because we cannot avoid interacting with one another and therefore we cannot avoid entering into situations in which we will be in moral conflict with one another. While the state of nature may not be as awful as a

Hobbesian state of war, it will be, in Kant's words, "devoid of justice" since "there would be no judge competent to render a verdict having rightful force." (*id.*) For, all disputes would be subject to the private will of some individual agent, whether or not that individual is party to the initial conflicting claims of right. Since there is no public right – rights that all can recognize and command respect – there is only the private right of the stronger to enforce his will. Consequently, within the state of nature, the freedom and rights of all cannot be mutually realized. The only way for "the free choice of each to accord with the freedom of all, and therefore... for there to be any right," (§14) Kant concludes, is to establish a state governed by laws – to restrict the freedom of all in the name of the freedom of all.<sup>35</sup>

The state resolves the moral peril of the state of nature by setting itself up as the ultimate and absolute arbiter of right. Judgments of private right that have public impact are always subject to regulation by the state. This is, Kant believes, the only way to secure the mutual realization of the freedom and rights of each since any limitation on the state's authority to determine right allows for moral conflict between legitimate claims of private right. Revolution, then, is particularly problematic since it claims a particularistic exception to the state's authority to speak and judge for all. For, revolutionary activity is

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<sup>35</sup> Kant writes that "*Right* is the limitation of each person's freedom so that it is compatible with the freedom of everyone, insofar as this is possible in accord with a universal law; and *public right* is the totality of external laws that makes such a thoroughgoing compatibility possible." (In Immanuel Kant, "On the Proverb 'That May Be True in Theory but It is of No Practical Use'", p. 72). On the basis of this, Kant concludes that "each may impel the other by force to leave this state and enter into a rightful condition..." (*Metaphysics of Morals*, §44).

the elevation of private right over public right. It therefore threatens to dissolve the juridical conditions that keep people out of a state of nature that is devoid of justice. For, it is the procedural authority of the sovereign to determine public right that moves subjects out from the state of nature into a state in which justice is possible and revolution, because it is always extra-legal (and spectacularly so), utterly disregards that procedural authority. Kant therefore argues that “to permit any resistance to this absolute power [of the state] (resistance that would limit that supreme power) would be self-contradictory; for then this supreme power (which may be resisted), would not be the lawful supreme power which first determines what is to be publicly right or not...” (6:372). In short, if each subject (or any group of subjects) has a standing liberty-right to engage in revolutionary activity, then “each has a right to do *what seems right and good to it*.” But, this just annihilates the public right that was supposed to get everyone out of the state of nature, putting everyone back into “a state devoid of justice” §44. Consequently, “a people has a duty to put up with even what is held to be an unbearable abuse of supreme authority.” (6:320)

#### **e. Associative Duties**

Associative duties are duties individuals have in virtue of their relationships with other individuals. The canonical examples of associative duties are familial duties, like the robust duties of care that parents owe to their offspring. Some political theorists have taken the family and the state to be analogous and have argued that on the basis of this analogy, there are *political* associative duties that individuals have to one another in

virtue of their shared membership in a political community.<sup>36</sup> There can be many possible associative duties that support the Standard View. For example, a natural one would be a duty to one's associates to obey the posited law (within certain limits set by independent moral principles). Or, there might be a duty of loyalty to one's compatriots, which does not entail a duty to obey the law, but which would rule out any seditious action including revolution. Or, there might be a duty of patriotism, which again would not entail a duty to obey the law, but would require due respect paid to the state and its offices, which might leave open a space for resistance (e.g., civil disobedience) but would rule out any form of revolutionary activity. Any one of these duties would be sufficient to rule out revolution. So a defender of the Standard View would not have to endorse all three associative duties; she would only have to show that in virtue of membership in a political community, individuals have at least one associative duty that precludes revolution.

Importantly, there is only one constraint imposed by the Standard View on a justification of associative duties, namely that such duties can exist in the absence of legitimate political authority. For, if associative duties are not, to borrow A. John Simmons's terms, *normatively independent* of the moral status of the political institution, then the associative duties would stand and fall with the legitimacy of the political

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<sup>36</sup> See especially Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), pp. 195 – 216. See also John Horton, *Political Obligation* (Atlantic Highlands, NJ: Humanities, 1992), pp. 146 ff, and Michael Hardimon, "Role Obligations" 41 *Journal of Philosophy* (1994) 333 – 363. Locke famously denies the moral salience of this analogy, see *Second Treatise on Civil Government*, §§52 – 76.

institution.<sup>37</sup> Thus, they would either be redundant (since the legitimate authority of the political authority would ground the Standard View) or, in cases in which the political institution is illegitimate, associative duties would not exist and a defense of the Standard View would have to rest elsewhere.

#### **4. Challenging the Grounds of the Standard View**

Having considered four arguments in favor of the Standard View, in this section I challenge the conclusiveness of these arguments. Let me be clear, though: my goal in this section is not to offer clear refutations of each of these arguments in support of the Standard View. Instead, my aim is entirely modest: my goal is to show that there is room for serious philosophical controversy when it comes to each of these defenses of the Standard View. Thus, my goal is only to raise doubts about the efficacy of appeals to the Standard View as a way to block serious inquiry into when revolution is justifiable.

##### **a. Legitimate Political Authority**

Grounding the Standard View in the legitimate authority of a political institution requires defending an account of legitimate authority. But, there is very little consensus on what conditions a political institution must meet in order to be a legitimate authority. And most strong accounts of legitimate authority (e.g., a voluntarist theory, a contractualist theory, or even Raz's Normal Justification Thesis) entail that many of the actual political institutions in the world today are illegitimate authorities. Thus, those

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<sup>37</sup> See A. John Simmons "Associative Political Obligations," in Simmons, *Justification and Legitimacy*, pp. 65 – 92.



who object to revolution *entirely* on the grounds of the legitimate authority of the political institution that is the revolutionary target might find themselves with precious few cases of unjustified revolution. Other proposals, such as illiberal communitarian proposals that ground the legitimacy of political institutions in their capacity to reflect, realize or facilitate the expression of communally shared values or traditions fare no better here since the fact of reasonable pluralism makes communitarian legitimization of political institutions highly vulnerable to a third-column problem: if the political institution's practices, policies, etc., cannot sufficiently encompass all the different communities it governs, then the political institution will not have legitimate authority over the members of those communities that are left out and therefore would not obviously rule out revolution by those who are excluded.

In short, appeals to legitimate authority meant to block justifiable revolutionary activity simply transform the question of the justifiability of revolution into the question of legitimate authority. And, that both fails to settle the question of whether revolution is justifiable (since it is an open question whether there are any political institutions with legitimate political authority) and conflates two significantly distinct issues (the legitimacy of some regime and the justifiability of revolution).

A second worry arises when we consider the relationship between just war and legitimate authority. Most liberal accounts of sovereignty spell out the conditions of sovereignty in terms of legitimate authority, such that if a state has legitimate authority then it has a claim-right on other states to respect its sovereignty. Wars, especially those that involve invasion (as most do), always involve the violation of the sovereignty of some state. But, many just war theorists believe that a state can simultaneously be a

legitimate authority over its subjects and engage in actions that might count as a morally acceptable *casus belli* for another state, thereby making violations of the sovereignty of the first state justifiable. According to this defense of the Standard View, though, the subjects of a legitimate authority have no right to violate the sovereignty of their own state (e.g., by engaging in revolution). This asymmetry, where the subjects haven't a right to rebel against a legitimate authority while other states have a right to violate the sovereignty of that same legitimate authority raises many thorny issues. For, while it is true that the claim rights of a legitimate sovereign state against other states are different and fewer than the claim-rights of that state against its own subjects, a legitimate state's claim-right against other states not to violate militarily its territorial rights is as strong a claim-right any state can have, regardless of whom it is against. If such a claim-right is suspended under certain conditions, e.g., when a regime with legitimate authority violates another state's claim-right to territorial sovereignty, then it is unclear why there cannot be certain conditions when at least some subjects also have rights of revolution against a regime with legitimate authority. After all, wars often result in the toppling of one regime, and so it is possible that a just war waged against a legitimate state actor by an illegitimate regime (say, in response to the legitimate state wrongly invading the illegitimate state), can lead to a legitimate state justifiably being overthrown by an illegitimate state. So, if we are to allow just wars against legitimate authorities, we ought to reconsider whether legitimate authority is sufficient to rule out revolutionary activity.

#### **b. The Consequentialist Rejection of Revolution**

Defending the Standard View on consequentialist grounds suffers from all the usual problems of consequentialist arguments. They are well known enough so I will not summarize them here (although one problem seems to be particularly severe in this case: any immediate negative effects of revolution might be massively offset by the positive effects experienced by future generations who are freed from having to be subject to a deeply objectionable political institution).<sup>38</sup> At the very least, though, we are owed by those who make the consequentialist argument both some sort of filled-out normative theory and some empirical evidence to back up their claims that, given that filled-out consequentialist doctrine, it turns out that revolutions are almost always impermissible, with the few exceptions, if there are any, being clearly demarcated. So, a (barely) sufficient objection to grounding the Standard View by appeal to the supposedly obviously awesomely bad consequences of revolution is the following: any such appeals that do not meet the just mentioned two conditions (a beefier normative theory and an empirical basis) amount to facile hand-waving.

But, for the sake of argument, let us grant that there might be something to grounding of the Standard View on consequentialist considerations. We can still object that consequences of revolution are not in any obvious way worse than the consequences of war and humanitarian military intervention. Thus, the appeal to the bad consequences

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<sup>38</sup> See Samuel Scheffler, ed., *Consequentialism and Its Critics* (NYC: Oxford University Press, 1988). See also Amartya Sen and Bernard Williams, “Introduction: Utilitarianism and Beyond” in Sen and Williams, eds., *Utilitarianism and Beyond* (NYC: Cambridge University Press, 1982), pp. 1 – 22.

of revolution that justifies the Standard View would apply equally well to the following Nonstandard View:

[THE *NONSTANDARD* VIEW OF WAR] *Even if some actor, state or non-state, has committed some act that warrants going to war, it is not justifiable for any actor, state or non-state, to fight a war.*

Recall how the consequentialist argument for the Standard View goes: Revolutions are hard to predict and therefore hard to control. The cost of an uncontrolled revolution can be extremely high due to the tendency of some revolutions to suffer “Thermidorian degenerations.” Thus, it is too risky to start an unpredictable revolution if there is a more controllable reformist alternative available. We can run this argument against war as well. It is particularly difficult to determine with any certainty the course of a war and, just like revolutions, wars can also suffer a kind of “Thermidorian degeneration.” Wars also cause widespread suffering, unhappiness, and frustrated reasonable actions, and not just for the soldiers. Civilian non-combatants often pay as high price in war as do combatants: not only are civilian non-combatants killed by enemy soldiers, the thick fabric of their lives is also often shredded to pieces by bombs and landmines. The same can be said with respect to many humanitarian military interventions: even carefully targeted bombing campaigns, such as the NATO bombing campaign against Serbia during the 1999 Kosovo War, can lead to widespread destruction, significant loss of life and massive economic upheaval (such as long-term food shortages and a huge rise in

unemployment).<sup>39</sup> In short, wars, as Locke pointedly noted, “cut up Governments by the Roots, and mangle Societies to pieces, [and] separated the subdued or scattered Multitude...”<sup>40</sup> Wars leave a society’s parts “scattered, and dissipated by a Whirlwind, or jumbled into a confused heap by an Earthquake.”<sup>41</sup> Thus, not fighting the war and seeking some peaceful alternative solution will probably lead to less destruction than fighting the war. So, the default rule should be: don’t fight any wars, even if one has legitimate *casus belli*. Hence, the Nonstandard View of War is true.

But, most believe that war is not only morally permissible but that conditions in which war is morally permissible are commonplace. Territorial incursions, human rights violations, genocides, crippling trade embargoes, etc., are all taken to be reasonable grounds for engaging in warfare, or at least in warlike humanitarian interventions. Is there any principled justification for the asymmetry between the justificatory statuses of war and revolution? Perhaps, but there are no *prima facie* principled grounds for this asymmetry. In fact, those with a contractarian bent might treat revolution as *more likely* to be justifiable than war since revolutions, if they are to get off the ground at all, require a level of popular support that starting wars does not require. Thus, if there is an asymmetry, it is an asymmetry suggesting that the higher justificatory hurdle is faced by war and not by revolution. Regardless, absent a defense of the asymmetry of war and revolution, there is a clear *modus tollens* here: if the consequentialist considerations in

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<sup>39</sup> Or consider the failed 1993 US intervention in Somalia in which a single infamous battle cause the death of approximately 4000 noncombatants.

<sup>40</sup> Locke, *Second Treatise of Government*, §211.

<sup>41</sup> *Id.*

favor of the Standard View push the questions of when and how revolution is justifiable off the philosophical table, then they push the questions of when and how to fight wars and to engage in humanitarian military interventions off the table as well. But, these latter questions are on the table and so the former questions ought to be as well.<sup>42</sup>

### **c. The Kantian Rejection of Revolution**

In order to engage substantively with Kant's objection to revolution, one must seriously engage Kant's broader ethical theory. This is well outside the scope of this paper, so a few brief reflections will have to suffice.<sup>43</sup>

First, while revolutions do temporarily plunge people back into a state of nature, there is no reason to believe that this is permanent. So long as revolutionaries aim at establishing a new state, the moral peril of a renewed state of nature is temporary. One might argue, though, that subjecting people to such peril is always wrong, even when the alternative is suffering unbearable abuses of supreme authority. This is where the second line of argument comes in.

Second, due to contingent historical developments, it is not the case that the possibility of justified revolution threatens to put people back into a state of nature as extreme as the one Kant imagined. For, new forms of distributed and even decentralized sovereignty have emerged as have other kinds of institutions, especially international

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<sup>42</sup> During the first five years of the Twenty-First Century, there were a series of *non-violent* revolutions in Georgia and Ukraine.

<sup>43</sup> For a more thorough treatment on these issues, see, e.g., Thomas E. Hill, Jr., "Questions About Kant's Opposition to Revolution," and Ryan W. Davis, "Is Revolution Morally Revolting?"

human rights institutions, the United Nations, the International Criminal Court and international non-governmental organizations can be the sources of the kind of juridical rights and freedom that Kant worried was so absent in the state of nature. There is no longer an utter absence of juridical order in the absence of local political authority. Justice may be neither swift nor ever forthcoming in some cases, but in virtue of these institutions, justice certainly *exists*. For, Kant's worry was that revolution would lead to a complete substitution of private right for public right. But, revolutionaries today can appeal to various parts of the UN Charter and international human rights jurisprudence, however inchoate it may be, as the ultimate grounds of their revolution, thereby keeping their moral judgments grounded in public right.<sup>44</sup>

In Section Five below, I shall explore at slightly greater length the way in which the Kantian considerations undergirding a prohibition of revolution can be reversed to ground a *legal right* to revolution. Needless to say, even if my inchoate suggestions below fail to pan out, their *prima facie* plausibility renders the Kantian defense of the Standard View suspect enough to prevent it from blocking a re-opening of the question of the justifiability of revolution.

#### **d. Associative Duties**

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<sup>44</sup> For more on a Kantian approach to an international legal order, see Jürgen Habermas, "Kant's Idea of a Perpetual Peace: At Two Hundred Years Historical Remove" in Jürgen Habermas, *The Inclusion of the Other*, edited by Ciaran Cronin and Pablo De Greiff (Cambridge, MA: MIT Press, 2000), pp. 165 – 201.

There are two failings in appeals to associative duties as grounds for the Standard View. First, whatever associative duties preclude revolution, why believe that they preclude revolution against the governing political institution even in the face of systematic oppression? Assuming a most basic form of liberalism, if associative duties exist, then the behavior they require must meet some kind of fairness requirement; associative duties are equal duties held by equal citizens towards one another, so such duties couldn't make radically unequal treatment obligatory. If a political authority establishes laws or policies that require radically unequal treatment by citizens of each other (e.g., its constitution is viciously racist and sexist), then citizens cannot have associative duties to one another to obey such laws or adopt such policies. But, could the unoppressed appeal to the associative duties owed to them by the oppressed and demand of the oppressed that they limit their resistance to reform alone? That is, given an oppressive regime, is it impermissible for the oppressed, given the associative duties they have to the unoppressed, to overthrow the oppressive regime? No: the associative duties owed to the unoppressed by the oppressed do not *on their own* give the unoppressed moral standing to demand of the oppressed that they limit to reform alone all their attempts to overcome their oppression. For, in the face of systematic oppression, reform alone is unlikely to succeed in improving conditions for the oppressed. Requirements owed to the unoppressed by the oppressed – *derived solely from associative duties* – that the oppressed continually submit to their oppression while they endlessly pursue a chimera of reform amount to associative duties owed by the oppressed to the unoppressed to submit meekly to a radically unjust regime.<sup>45</sup>

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<sup>45</sup> In fact, the associative duties owed to the oppressed by the unoppressed seem, on the face of it,



Second, under most reasonable theories of legitimate authority, any political institution that systematically enacts racist, sexist laws and governs by violently discriminatory policies is not a legitimate authority. So, any regime that enacts such laws and policies would not be protected from revolution by the associative duties owed by its subjects to one another. Associative duties seem to support the Standard View only on the assumption that the duties are held by subjects governed by a political authority with a reasonable claim to legitimacy. The required normative independence of the associative duties from legitimate authority is therefore absent. So, appeals to associative duties as grounds for the Standard View fail on this count as well.

Finally, the boundaries of the community whose members are bound together by the associative duties are boundaries drawn by political institutions, both national and international. But, if the political institution that binds together heterogeneous communities is illegitimate, then there may be nothing morally significant binding together the members of all those communities in a way that would generate the right kind of associative duties between those members. That is, some criteria must be used to limn the boundaries of the communities whose members bear the associative duties. Why should living within political boundaries that are determined entirely by morally illegitimate processes – i.e., the actions of an illegitimate political authority – make it such that everyone within those boundaries has special associative duties towards everyone else in those boundaries? For example, the presumptive illegitimacy of the government of the Soviet Union meant that there could not be institutionally grounded

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to give the oppressed standing to demand of the unoppressed that they join them in resistance and, if it comes to it, revolution!

associative duties binding Kazakhs, Chechens, Muscovites and Siberians. If there were nothing else binding the members of these diverse communities together, then why would the members have associative duties to one another that could *on their own* preclude revolutionary activity against the Soviet Union? While it is true that the fact that all are coerced by an illegitimate centralized authority could generate associative duties of fair play or something like that. But, what duty could preclude the overthrow of the illegitimate authority? The best that can be had are duties limiting tactics employed, not duties blocking revolution *tout court*.

Finally, one might suggest some other basis for drawing the boundaries, like a shared history, shared values, shared ends or some other nationalist (but not institutional) considerations. But, this also faces a serious problem. For, there is no *territorial* component of membership of a culture or a language group or a religion. But, there is a territorial component to traditional sovereignty, which is a core concept in the received theory of revolution. Thus, there is a bad fit between associative duties understood as duties held by members of the same culture or religion and the received theory of revolution. Give up one, and you lose support for the Standard View; give up the other and you invite rethinking revolution.

## **5. Two Proposed Defenses of Revolution**

The Standard View of revolution is that there are always overriding or extremely weighty moral reasons counting against it. In Section Four, I raised worries about the strength and/or weightiness of these reasons. By doing so, I hope I have cleared the way for re-opening discussion of the justifiability of revolution. Consequently, I shall

conclude the paper with very brief reflections about two new possible routes for justifying revolutionary activity. These suggestions are meant to stimulate further research and conversation, and not to be treated as full proposals.

The first line of argument takes as its starting point Kant's objection to revolution and the quick response I offered above. That is, it begins with an appeal to the evolving international human rights regime as a source of *sovereign public right* that could justify revolutionary activity. According to this line of argument, the legitimacy of a political institution depends upon its respect for human rights established by international law.<sup>46</sup> Any political institution that systematically violates these established human rights is not a legitimate authority and therefore such an institution would not have any claim-rights against its subjects prohibiting them from rebelling (whether the institution would retain claim-rights against outsiders prohibiting their intervention is another matter). This thereby opens the door for a *legal right to revolution*, something Kant thought was a plain contradiction in terms (because a legal right to revolution would be tantamount to having the legal authority to destroy the source of one's legal authority). The right to revolution would be guaranteed by an international jurisprudential regime (like the International Criminal Court) backed up by a decentralized network of executive offices – UN forces, NATO forces, African Union forces, etc., and it would be a legal right to revolution against one's own local authority. There is therefore neither conceptual incoherence in

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<sup>46</sup> See, e.g., David Luban, "Just War and Human Rights" and "Romance of the Nation-State," both reprinted in Charles Beitz, Marshall Cohen, Thomas Scanlon and A. John Simmons, eds., *International Ethics* (Princeton, NJ: Princeton University Press, 1985), pp. 195 – 216, 238 – 343, respectively and Allen Buchanan, *Justice, Legitimacy and Self-Determination*.

the claim that revolution against a sovereign can be carried out entirely on terms of public right nor *prima facie* practical impossibility to conditions being such that this claim would be true.

According to this view, an important characteristic of a justified revolution is that it is done in the name of internationally recognized human rights, i.e., in virtue of a kind of “juridical condition” that exists between the revolutionaries and the target institution. Thus, while revolution would be a spectacular rejection of the authority of a local political institution, it would also be a spectacular endorsement of an international, juridical human rights regime. Revolutionary activity in the name of the international human rights regime therefore not only doesn’t express rejection of the rule of law *tout court*, but in fact expresses endorsement of both the rule of law in general (and so is a rejection of anarchy), and an existing kind of rule of law, in particular (and so is an endorsement of a system of public right, albeit an incomplete one). This, it seems, is a powerful line of argument that might support revolution against many illegitimate regimes that not only would not threaten the global collapse of the rule of law but might even strengthen it.

A second line of argument justifying revolution – one to which I make the barest gesture here – appeals to massive distributive injustice as grounds for revolution. According to this line of argument, massive distributive injustice is largely due to the operations of a political institution that claims some kind of sovereign authority.<sup>47</sup> Because of its role in generating and promoting the distributive injustice, this political

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<sup>47</sup> For more on this thesis see, e.g., Mathias Risse (2005) “What We Owe to the Global Poor” 9 *Journal of Ethics* 81 – 117.

institution is not a legitimate authority and so enjoys neither the required obedience of its subjects nor a strong moral protection from insurrection. In some cases, the political institution may be so poorly constructed and the injustices so severe that the losers in the distributive scheme will have little reason to expect that reform will ever occur (much less that injustice-alleviating reform will occur). In such cases, because distributive injustices are so grave, those who are on the losing end of the distribution may have a right to engage in revolutionary activity against the political institution. This may appear to be a familiar Marxist line of argument – and in some ways it is – but instead of resting upon dubious assumptions about dialectical materialism or the relationship between base and superstructure, it can rest upon far less tendentious egalitarian principles.

I do not claim that either of these lines of argument justifying revolution is successful. I only claim that given the apparent weakness of the standard objections to revolution, it cannot be presumed that these two lines of argument – or any other one that might be developed – will be overwhelmed by objections to revolution.