

BY WHOSE AUTHORITY? A POLITICAL ARGUMENT FOR GOD'S EXISTENCE

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Abstract. In *The Problem of Political Authority*, Michael Huemer argues that the contractarian and consequentialist groundings of political authority are unsuccessful, and, in fact, that there are no adequate contemporary accounts of political authority. As such, the modern state is illegitimate and we have reasons to affirm political anarchism. We disagree with Huemer's conclusion. But we consider Huemer's critiques of contractarianism and consequentialism to be compelling. Here we will juxtapose, alongside Huemer's critiques, a theistic account of political authority from Nicholas Wolterstorff's book *The Mighty and the Almighty*. We think that Wolterstorff's model does better than contractarianism and consequentialism at answering Huemer's critiques. We also think that an abductive basis for God's existence emerges from the inadequate authority accounts that Huemer surveys.

I. THE PROBLEM OF POLITICAL AUTHORITY

In *The Problem of Political Authority*, Michael Huemer argues that the contractarian and consequentialist groundings of political authority are unsuccessful, and, in fact, that there are no adequate contemporary accounts of political authority.¹ As such, the modern state is illegitimate and we have reasons to affirm political anarchism. We disagree with Huemer's conclusion. But we consider Huemer's critiques of contractarianism and consequentialism to be compelling. We believe also that Huemer's criticisms are a good proxy for a lengthy line of criticisms that other philosophers have raised against the most prominent contractual and consequentialist accounts of political authority.

1 Michael Huemer, *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey* (Palgrave Macmillan, 2013).

So we will here use Huemer's work as a catalyst for proposing a theistic account of political authority.

We will juxtapose, alongside Huemer's critiques, a theistic account of political authority from Nicholas Wolterstorff's book *The Mighty and the Almighty*.² We think that Wolterstorff's model does better than contractarianism and consequentialism at answering Huemer's critiques. We will also suggest that an abductive basis for God's existence emerges from the inadequate authority accounts that Huemer surveys. In section one we summarize Huemer's arguments against traditional social contract theory, hypothetical social contract theory, and consequentialism; in section two we develop the Wolterstorffian account of political authority; section three sketches an abductive argument for God's existence; and section four responds to two objections — about theism's doxastic costs, and our own abductive evidence base.

II. TRADITIONAL SOCIAL CONTRACT THEORY

For Huemer, contractarianism and consequentialism are the best contemporary accounts of political authority. We agree, with one qualification:

(A) Contractarianism (C1) and consequentialism (C2) are the best *secular* accounts of political authority.³

Contractarianism, according to Huemer, asserts that individuals are obligated to obey their government because they have entered an agreement, either explicit or implicit, with the state.⁴ But such a grounding of political authority suffers from fundamental flaws, all relating to the conditions for valid agreements. Huemer highlights four such conditions.⁵

2 Nicholas Wolterstorff, *The Mighty and the Almighty: an Essay in Political Theology* (CUP, 2012).

3 We think that most persons agree with this first premise, and our article is not really intended to be addressed to persons who do not. Our reason for listing this qualification will emerge in section two. Other monikers that philosophers have used in discussing contractarian authority ideas have included 'consent' and 'agreement.' 'Instrumentalism' is one of the frequent names for consequentialism.

4 Huemer's rendering of the nature of the contract is not universally shared. Locke and others have characterized the contract as an agreement among persons, and not between individuals and the state: John Locke, *Two Treatises of Government* (CUP, 1988). Similar problems are raised in Onora O'Neill, "Constructivism vs. Contractualism", *Ratio* 16, no. 4 (2003).

5 Huemer, *The Problem of Political Authority*, 25.

- (1) Valid consent requires a reasonable way of opting out.
- (2) Explicit dissent trumps alleged implicit consent.
- (3) An action can be taken as indicating agreement to some scheme, only if one can assume to believe that, if one did not take that action, the scheme would not be imposed upon one.
- (4) Contractual obligation is mutual and conditional.⁶

Regarding (1), Huemer notes that, 'All parties to any agreement must have the option to reject the agreement without sacrificing anything to which they have a right.'⁷ Huemer's example is of a chairman who proposes a future meeting time to his boardroom. He then asks objectors to publicly dissent by cutting off their left arms. Suppose no one does so. It still seems wrong to say that a valid agreement has been reached to meet at the suggested time, given that there was no reasonable opt-out offer.

Regarding (2), Huemer states that 'valid implicit agreement does not exist if one explicitly states that one does not agree.'⁸ He imagines a customer who orders food at a restaurant. The customer, implicitly, has agreed to pay for the food. But then if she were explicitly to state that she would not be paying for the food, Huemer thinks that her explicit dissent ought to trump her initial, implicit agreement. Similarly, in discussing (3), Huemer imagines a board chairman who announces first that the next meeting will be at a specific time and, then second, that it doesn't matter what anyone says, but that the meeting's time will not be changed. Those who do not speak out against the meeting time, Huemer thinks, are not implicitly agreeing with the chairman.⁹ They know, after all, that their dissent does not matter. Finally, regarding (4) Huemer states, 'A contract normally places both parties under an obligation to each other, and one's party rejection of his contractual obligation releases the other party from her obligation.'¹⁰ You might implicitly consent to pay for your food by virtue of placing an order. But if the waitress does not then deliver your food, you are no longer obligated to pay as she has not held up her end of the deal.

6 *Ibid.*, 25–27.

7 *Ibid.*, 25.

8 *Ibid.*, 26.

9 *Ibid.*, 26.

10 *Ibid.*, 27.

On the basis of these four conditions, Huemer concludes that traditional social contract theory is inadequate as a grounding of political authority. Modern states do not allow reasonable opt-outs from their coercive and jurisdictional directives:

To leave one's country, one must generally secure the permission of some other state to enter its territory, and most states impose restrictions on immigration. In addition, some individuals lack the financial resources to move to the country of their choice. Those who can move may fail to do so due to attachments to family, friends, and home. Finally, if one moves to another country, one will merely become subject to another government.¹¹

Moreover, modern states also do not make provisions for those who explicitly disagree with them. For example, within the United States, there are various people (e.g. anarchists) who deny that the government is their authority. They object to the state, and yet the state still taxes and coerces them.¹²

III. HYPOTHETICAL CONTRACT THEORY

We agree with Huemer and, in our opinion, his conditionals argument undermines traditional contract theory. But might hypothetical contract theory be able to do better? Hypothetical contract theorists assert that political authority is justified because if you were, hypothetically, to be offered a social contract, you would consent to it. Huemer imagines an emergency room doctor who decides to operate on an endangered and unconscious patient. It seems morally permissible for the doctor to work on the unconscious patient, given that, if she were conscious, she would likely give her consent. The core idea in the hypothetical contract is that individuals who are under the state's sovereign jurisdiction would similarly consent if they were to encounter a formal contract. For Huemer, defenders of this view have two tasks. '[F]irst, they must show that people would accept the social contract in their hypothetical scenario; second they must show that this hypothetical consent is morally efficacious, in the sense that it generates obligations and ethical entitlements similar to those generated by valid actual consent.'¹³

11 Huemer, *The Problem of Political Authority*, 29–30.

12 *Ibid.*, 30.

13 *Ibid.*, 36.

But, as Huemer points out, the unconscious patient scenario is not enough to justify the hypothetical position. After all, our own circumstances are not analogous to those of an unconscious patient. We are, quite obviously, not unconscious. We are alive and we are moving about in the world in a conscious way. Many of us, to be sure, would consent to the state — just as many of us would consent to the surgery. But some of us would not consent to the state. Most moral philosophers would reject the practice of doctors overriding, say, a fully conscious patient's refusal of a surgery. And that is exactly what Huemer thinks our sensibilities are when it comes to those fully-conscious persons who would not, per the hypothetical, consent to the contract.¹⁴ After all, it is not unfeasible for the state to ask, explicitly, for consent from fully-conscious persons. But hypothetical contract theorists tend to think speculatively, and too often they neglect real-world values and philosophical beliefs. Most hypothetical theorists, in fact, never get around to an investigation of our actual, real-world consent patterns.

Some hypothetical contract theorists argue that there does not have to be universal consent, but rather that it would be acceptable, as an approximation, for the contract only to be such that, hypothetically, it would be 'unreasonable' to reject it.¹⁵ Unreasonable persons, being unreasonable, may legitimately be coerced. Such a move avoids certain criticisms. But Huemer thinks it still fails. After all, we have a deep sensibility that we ought not to coerce another adult to do something in circumstances in which we consider it to be unreasonable for her not to do that something. Most moral philosophers would say that doctors ought not to override a conscious, adult patient's refusal of surgery even when the patient seems unreasonable. For Huemer,

This principle stands in stark conflict with common sense morality. Imagine that an employer approaches a prospective employee with an entirely fair, reasonable, and attractive job offer, including generous pay, reasonable hours, pleasant working conditions, and so on. If the worker were fully informed, rational, and reasonable, he would accept the employment offer. Nevertheless, the employer is not ethically entitled to coerce the employee into working for him in the event that the employee, however, unreasonably,

14 *Ibid.*, 38–39.

15 Other 'amendments' to the hypothetical contract that Huemer considers include that 'hypothetical agreement might be thought to show that a social arrangement is fair', and also that 'hypothetical agreement might be thought to show that a set of moral principles reflects certain reasonable constraints on moral reasoning.' *Ibid.*, 57–58.

declines the offer. The reasonableness of the offer, together with the hypothetical consent, would bear very little ethical weight...¹⁶

For Huemer, the conceptual tools that hypothetical contract theorists deploy in their efforts to compensate for their speculations are artificial and feeble. Huemer focuses especially on the paucity of evidence that he thinks that thinkers like Rawls and Nagel have offered in support of their claim that any particular real-world political system might 'be agreed upon by all reasonable persons,' and thus would be legitimate.¹⁷ As such, per Huemer, the hypothetical contract is no better at justifying political authority than the traditional contract. It is time to turn to consequentialist justifications.

IV. CONSEQUENTIALISM

Suppose you are on a leaky lifeboat. The boat will sink unless the passengers bail the incoming water. Perhaps you have tried to get the others to bail. But no one is listening to your arguments. The situation is dire. So it seems morally permissible for you to take out your gun and coerce the others to start bailing.¹⁸ Huemer considers this example compelling. It suggests to him that it is sometimes permissible to coerce others and/or to violate others' property rights. Doing so is sometimes necessary to prevent something 'much worse' from happening, so long as one's efforts do not 'coerce others to induce harmful or useless behaviors or behaviors designed to serve ulterior purposes unrelated to the emergency.'¹⁹ The state is morally permitted and perhaps even obligated to coerce people if doing so prevents, say, society's collapse. But it cannot then use such a situation to advance any further claim to some comprehensive and content-independent coercion mandate.

For Huemer, even the stark grounding of political authority that this compelling, consequentialist scenario offers would only, at most, legitimize the most basic of governmental functions: in particular, laws that protect innocent lives, the environment, and laws that secure the state's monop-

16 Huemer, *The Problem of Political Authority*, 44.

17 John Rawls, *A Theory of Justice* (OUP, 2005); Thomas Nagel, *Equality and Partiality* (OUP, 1991).

18 Huemer, *The Problem of Political Authority*, 94.

19 *Ibid.*

ly.²⁰ It would not, however, legitimize laws which pertain to marriage, space exploration, government schools, welfare programs, minimum wage laws, laws which prohibit immoral behavior, and laws which prohibit people from harming themselves.²¹ So at best, consequentialism justifies a minimal state. It is a state that is desired by only a fraction of modern humans.

More importantly, the idea that there can only legitimately be a minimal state seems contrary to common sense. Most people, when they look around at the world's governments, have a seeming that states should be able to pass laws which go beyond the minimal mandate. We agree then with Huemer when he says that consequentialism is an inadequate justification for the state. It certainly seems to be inadequate as a justification for our multi-faceted, post-Enlightenment nation-states. More generally, when coupled with the above criticisms of contractarianism, we think that Huemer has, at the very least, demonstrated that there are problems with the most prominent contemporary justifications of political authority:

(B) Huemer's criticisms render C1 and C2 models questionable as justifications of political authority.

And thus, from (A),

(C) The most important contemporary accounts of political authority are questionable.

There are two directions in which Huemer's arguments could be taken. One is Huemer's own principled anarchism: modern forms of political authority are unjustifiable since they fail to meet common-sense contractual and consequentialist legitimation requirements. But we think that most persons of good will

20 Huemer, *The Problem of Political Authority*, 96. Huemer similarly considers the 'fairness theory of political obligation,' on which 'one must obey the law because to disobey is *unfair* to other members of one's society, who generally obey.' (Huemer, *The Problem of Political Authority*, 86) He questions, however, whether in fact it is typical for one's obedience to the law to causally contribute to the provision of the benefits of the cooperative scheme, given that the obedience of others is usually enough to ensure the sustenance of the society, and given also that so many laws are passed by governments that are of no importance in bringing about the cooperative scheme's essential goods. Moreover, for Huemer, the fairness theory also does not generate content-independent obedience obligations because many of the laws that governments pass are laws which reflective individuals would not have wanted to be passed in the first place.

21 Huemer, *The Problem of Political Authority*, 95-96.

think that there ought at least to be some kind of justification for the modern state's dictates. So for most persons, it would be more morally and intellectually satisfying to continue to look for better, more convincing justificatory accounts. In this section, our contention will be that there are certain such accounts — in particular, structurally theistic ones — that are better than contractarianism and consequentialism at answering Huemer's criticisms. We will be using Nicholas Wolterstorff's *The Mighty and the Almighty*, which, we acknowledge, is more of a sketch than a systematic defense.²² As such, we will be reconstructing more of a 'Wolterstorffian' account than 'Wolterstorff's account,' because we will be facilitating a dialogue between Wolterstorff and Huemer that goes a short ways beyond Wolterstorff's stated views.²³ A caveat that we want to underscore, how-

22 Our engagement with Huemer is developed from within the Christian tradition. But much of our argument is traceable to other theistic traditions as well, many of which make assumptions about political authority that are similar to those of Wolterstorff.

23 Wolterstorff elsewhere has expressed his belief in an overdetermined grounding of political authority: in his view, there are accounts of political authority from above (i.e. God) and below (secular accounts) that are successful. In service of this dual-purpose vision, he has, while affirming that all previous accounts of political authority have failed, proposed his own unique and secular account of political authority. In particular, humans have a right to the following: 'when possible, some institutionalized arrangement for protecting us against being seriously wronged by our fellows' (Wolterstorff, *The Mighty and the Almighty*, 102–3). For Wolterstorff, all persons have a right to a higher institution to protect our fundamental rights from serious violation. And he thinks that this institution can carry out its duty to establish justice via the coercion of its citizens. This unique approach to political authority, in our view, has faults. For instance, Wolterstorff's account 'from below' does not ground a 'robust' authority conception. It is an account which attempts to ground the government's right to coerce only insofar as pertains to protecting fundamental natural rights. Thus, the government would not have coercive authority in say, funding the arts, space exploration, highways, or infrastructure. If a subject shares our seeming that (viz. even if the subject thinks the government shouldn't be involved in such things) the government has the *de jure* authority to do what is listed above, then Wolterstorff's account, like the consequentialist account before it, becomes incomplete. Wolterstorff seems to concede as much in his *Understanding Liberal Democracy*. There he states, 'The sketch just presented, of an account from below of the political authority of the state, says nothing about the status of those legislative enactments that are aimed not at protecting citizens against serious violations of their rights by other citizens but at bringing about some common good—for example, a bill for the construction of highways and for the imposition of taxes to support that construction. Either such legislation does not generate obligations in citizens or, if it does, accounting for why it does will have to take a quite different form from the account of political obligation that I have just given.' See Nicholas Wolterstorff, "Accounting for Political Authority of the State", in *Understanding Liberal Democracy*, ed. Nicholas Wolterstorff and Terence Cueno (OUP, 2012), 275.

ever, is that while we think Wolterstorff's account is a superior justification in the areas we explore, we do not think that it necessarily follows that it is superior as such to contractarian and consequentialist accounts. We realize that, although the Wolterstorffian account might be better than other accounts at explaining, say, the features and phenomena that a thinker like Huemer highlights, it might nevertheless, on the whole, be less compelling than they are because of other, different explanatory failures, idiosyncratic issues, or because of its inability to pass some independent threshold of plausibility. A thorough investigation of all such weaknesses is beyond the scope of this paper. We will, however, near the end of our article make a gesture in this direction by engaging two objections that suggest that the model, on the whole, lacks plausibility, and by suggesting that a Wolterstorffian account does at least in the areas that we are here exploring fare better than its secular counterparts. And if this is the case, then, for persons for whom these areas are important, there is an argument for God's existence from political authority.

V. WOLTERSTORFF'S THEISTIC JUSTIFICATION OF POLITICAL AUTHORITY

For Wolterstorff, God does not need our permission in order to have authority over us. He has that authority just by virtue of being the world's creator.²⁴ God chooses, however, to delegate his authority to particular political entities. Above all, it is God's love for justice, and his desire that injustice be curbed, that leads him to authorize the state: 'to exercise governance over the public so as to curb wrongdoing.' Justice, usually, is best promoted via rights protection. The state is God's delegated authority, erected for the sake of rights protection. It is also, at the same time, limited by rights protection. It does not have license to violate the rights of persons.

Part and parcel of Wolterstorff's delegation model are his ideas about God's moral governance of humankind. Such governance includes directives on how we ought to treat God, how we ought to treat others and ourselves, and how

24 We are not aware of anyone who would argue that a creator God would not possess authority over His creation. We have a strong seeming that a creator has authority over his creation. For those without this seeming, we recommend the long tradition of natural law arguments for the notion that a creator possesses his creation. For instance, chapter 5 of John Locke, *The Second Treatise of Civil Government* (Hackett Publishing, 1980).

we ought to treat the natural world. Our sensibilities by virtue of being subject to God's moral governance equip us to discern right from wrong, to protest wayward governments, and, when we are ourselves the governors, to oppose wrongdoing. For Wolterstorff, we ought usually to obey the state, in recognition that the state is God's chosen instrument for curbing injustice: 'When the state acts for the purpose of curbing injustice in society, its directives are binding; they generate in the public the obligation to obey.'²⁵ Wolterstorff does not think that Romans 13, the main Christian governance passage, authorizes the state to go beyond the 'curbing injustice' mandate. But nothing that the first seven verses of Romans 13 say is inconsistent with a state that does go beyond that mandate, and even that seeks to act for the sake of the common good.

There are other parts of the Christian Scriptures, however, that go beyond Romans 13 and that do suggest a governance form beyond the mere 'curbing injustice' mandate. Wolterstorff highlights especially the wide-ranging Biblical idea of 'shalom,' the 'flourishing of the people,' and he links it to a broader mandate: 'In the modern world, states serve this desire of God for shalom by...building infrastructure, securing coordination of activities, founding and maintaining institutions and landscapes that are of public benefit.'²⁶ The shalom concept suggests for Wolterstorff that God has authorized governments to act for the common good, so long as they are not wronging individuals, institutions or the people as a whole. His examples of the common good include coordinating citizen activity, building infrastructure, and establishing public parks.

Finally, Wolterstorff distinguishes between 'positional authority' and 'performance authority.' The latter, he thinks, is the better interpretation of the many Scriptural passages that instruct Christians to obey the government. The assumption of classical Biblical interpreters like John Calvin was that the first seven verses of Romans 13 suggested the former, a 'positional authority' concept: 'the authority to issue directives by virtue of legitimately occupying some institutional position of authority.'²⁷ For them, 'whoever legitimately occupies some position of authority in the government has been placed in that position by God.'²⁸ As such, governments may justifiably issue

25 Wolterstorff, *The Mighty and the Almighty*, 113.

26 *Ibid.*, 114.

27 *Ibid.*, 115.

28 *Ibid.*.

directives. The rest of us, on the classical Calvinist view, are then obligated to obey such directives — even to the point of doing the morally reprehensible.²⁹

But Wolterstorff thinks that Romans 13 is actually proposing a performance-authority concept, and not a positional-authority one. Performance-authority is an idea that justifies resistance, whenever the directives of the government are morally reprehensible: 'a directive generates in [persons] a moral obligation to obey only if it was morally permissible for the official to issue that directive.'³⁰ So while the citizens of a morally rogue state might in one sense be *legally* obligated to obey their government's directives, nevertheless because their government has 'performance authority' and not 'position authority,' Wolterstorff thinks that theirs would not be a *moral* obligation. Theirs, rather, is a right of resistance whenever the state violates their moral sensibilities. However, and this is important, Wolterstorff thinks that their disobedience is only legitimate if it passes the tests of prudence and consequentialism. Would disobeying a state's directives bring about needed reforms? Or would it impair or cause the collapse of the state's justice system, and thus promote greater evils?

So described, our contention is that the Wolterstorffian's authority justification model more adequately responds to Huemer's concerns than do contractarianism and consequentialism. Consider first Huemer's criticisms of the traditional social contract. In one sense the Wolterstorffian bypasses such criticisms altogether because he does not seek to justify the state via a contract at all. Instead, for the Wolterstorffian it is God who justifies the state because it is God, the world's creator, who delegates his authority to the state. And it is God who instructs the citizens then to obey the state's dictates, unless and until their moral sensibilities are violated. Since the Wolterstorffian employs no contract, and supposes no consent, he faces no opt-out problem and does not have to worry about the state violating our contractual sensibilities. The Wolterstorffian has a way of legitimizing political authority that the contractarian does not.

Huemer's problem with contractarianism, however, is not just with the notion of consent. Rather, he worries that the contract idea is unrealistic be-

29 Calvin's view, rather a hard-line one, was that if 'someone is functioning as God's deputy in issuing a directive, then, by his commanding that so-and-so be done, God commands that that be done.' Wolterstorff, *The Mighty and the Almighty*, 78.

30 *Ibid.*, 117.

cause it is biased toward the state and treats dissenters unfairly. Recall that Huemer first criticizes the contract for offering inadequate opt-out provisions — such as valid consent requires. Second, he thinks that explicit dissent ought to trump alleged implicit consent, and the contract idea does not allow for this. Third, an action should indicate agreement only if one can assume to believe that, if one did not take that action, a scheme would not be imposed upon one. And fourth, contractual obligation ought to be mutual and conditional, and since real-world governments do not act as though they are mutually and conditionally bound in the way that their citizens are, legitimate contracts do not obtain.³¹ The common thread in all of these conditionals arguments is a non-realism critique.

The Wolterstorffian's theistic assumptions equip him to approach the political authority topic in a way that is more morally and intellectually realistic than contractarianism, and, as such, a better response to Huemer's core concerns. In ascribing realism advantages to the Wolterstorffian model, what we mean, first, is that it maps more accurately onto the actual world than does contractarianism and, second, that its operational provisions are a more practicable way of navigating real-world cooperation breakdowns. We think that our claim that the Wolterstorffian model is more realistic is illustrated particularly vividly by an inspection of the most likely of the circumstances in which citizens would want to opt out of a real-world contract: circumstances in which the state's dictates are violating their moral sensibilities. A lack of real-world recourse, vis-à-vis moral sensibilities violations, appears to be Huemer's core worry when, in his first, second, and third criticisms he highlights the traditional contract's absence of opt-out provisions.

In short, the 'performance authority' idea is the key reason why we think that the Wolterstorffian model is more realistic than contractarianism about moral sensibilities violations. What the Wolterstorffian means by 'performance-authority' is not just that God has ultimate moral governance and that he delegates his authority to human officials, for the sake of curbing injustice.³² It also means that the dictates of governments are worthy of our obedience only insofar as they are fulfilling that mandate and are consistent with God's ultimate, background moral governance. To say that when government

31 Huemer, *The Problem of Political Authority*, 25–27.

32 The model is something like that of a benevolent landlord, or the director of a charity project.

officials are failing to curb injustice, God's delegation conditions are violated and our disobedience is legitimate, is to make robust provisions for citizen dissent. Such provisions are greater than anything that is offered by the contractarianism that Huemer surveys, and they suggest a greater awareness on the part of the Wolterstorffian of real-world contingencies. Further evidence of the Wolterstorffian's real-world awareness is discernible in the simplicity with which it is possible to implement such dissent provisions, without upsetting the moral order itself: whenever particular government officials are violating God's moral governance, the performance-authority mandate is undermined and the dissent of the citizens becomes justified — without underlying moral governance ever being called into question.

We think that the Wolterstorffian model is more realistic than contractarianism in its acknowledgment of the failures of human governance and its attempt to incorporate its awareness of such failures into its model of citizen decision-making. We also think that it is more realistic for the Wolterstorffian to employ the 'performance authority' idea to hold governments to tangible behavioral standards, and, as such, to respond constructively to the feasibility concern that is present in Huemer's fourth criticism — that the contract is not mutually and conditionally binding upon governments in the way that it is for citizens. Finally, we think that it is more realistic too for the Wolterstorffian to model citizen decision-making in a way that does not sanction unreflective forms of dissent. In stipulating that the dissents of the citizens must first pass the tests of prudence and consequentialism, the Wolterstorffian is offering a practicable, sober disobedience model.

In sum, our view is that the Wolterstorffian model is more realistic than contractarianism in its assumption that governmental misbehavior is commonplace, and also, at the same time, in its provision of robust dissent opportunities — so long as things do not get out of hand. The feasible opt-out provisions that the Wolterstorffian model offers, amid moral sensibility violations, make it a more realistic understanding of actual human politics, and also a more realistic understanding of the justification of political authority vis-à-vis contingencies and breakdowns.³³

33 We want to underscore that Locke's contract is a hybrid view that allows robust space for resistance against badly behaving states, in a manner that is similar to that of Wolterstorff. But, it is important to note, the reason why Locke is able to do this is because he subscribes to the view that there is a law of nature, set up by God, apart from the state and against which

Huemer raises similarly vigorous criticisms against the hypothetical contract idea. His core worry here seems to be that the idea violates the sovereignty that humans ought to have over their own lives and community involvement. For Huemer, even ‘unreasonable’ persons ought still to be sovereign over their social interactions. After all, they are fully conscious and their personal sovereignty is something that we would, under any other circumstances, accord greater ethical weight than what we would accord to a ‘reasonableness’ criterion.³⁴ We agree here with Huemer’s assertion that a hypothetical contract is an illegitimate authority arrangement. An imagined agreement of reasonable persons is a fragile basis for state authority because, even if ‘reasonable’ persons were to agree to a particular hypothetical contract, nevertheless that contract, at the end of the day, would still be a mere fiction.

We also think, however, that the Wolterstorffian can interact more constructively than contractarianism with Huemer’s core concern about the hypothetical contract. In one sense the Wolterstorffian again bypasses the hypothetical contract’s problems altogether, since, as mentioned, he offers realistic provisions for dissent, and since, in rejecting the contractual idea in the first place, he does not have to demonstrate the real-world legitimacy of a philosophical fiction. Because God has given authority to the government, the Wolterstorffian can legitimize the government’s authority over all of its subjects, with or without their consent. There is, however, a third resource which the Wolterstorffian has and which we think is similarly attractive. Not only is it consistent with Huemer’s choice sovereignty idea, but it also softens the rougher edges of Huemer’s assertion that unreasonable persons ought to be able to opt out of a hypothetical contract.

Suppose, *prima facie*, that one agrees with Huemer that it would be illegitimate to coerce persons — even unreasonable ones — to abide by a hypothetical contract. The main worry we think one should then have is that such a view could lead to chaotic circumstances, if and when large numbers of unreasonable persons were to reject the state’s dictates.³⁵ One way that the Wolterstorffian

the dictates of the state ought to be measured: Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke’s Political Thought* (CUP, 2002).

34 Huemer’s account, we think, seems to be supposing a sort of natural right to freedom, which ought, by default, to take trumping precedence over justifications of the coercive state.

35 The fact that such persons do exist in large, real-world numbers is an empirical point that we think is underscored by the social turmoil that so quickly follows whenever wars or natural

might respond to such a worry is via an appeal to providence. Wolterstorffians will likely think that God is omnipotent and benevolent, and that his creation of humans was providential. Qua providential, it stands to reason that God would endow humans with cognitive capacities that are truth-aimed and properly functional—and that humans could consult with confidence when they find themselves in uncertain circumstances.³⁶ Cognitive capacities are truth-aimed if they exhibit reliability. The presence of such reliability, were the Wolterstorffian to invoke such an idea here in a political context, would suggest that there are boundaries against wayward citizen dissents—boundaries to prevent such dissents from going off the rails, as it were. So, via an appeal to divine providence, a Wolterstorffian could claim that the natural orientations of human cognitive capacities are toward truth, and that as such God's providentiality is a dependable foundation. Then, if one were to accept the Wolterstorffian's initial theistic assumptions, one would have resources for assuaging chaos concerns that are better than those of a contractarian (or even of Huemer himself).³⁷ To be sure, in saying this we do not mean to suggest that divine providence is a guarantee against chaos. Wolterstorff, in his non-political writings, affirms the existence of free will. Beings with free will can deploy their faculties poorly. But at the same time, if one thinks that human cognition is pre-packaged in providential ways as it were, then one can be more confident than one would otherwise be about the decisions of dissenters.

By contrast, it is not similarly possible for contractarians—or even for reflective anarchists, like Huemer—who lack divine providence commitments to be confident about exercises of citizen dissent.³⁸ The greater confidence that

disasters have destroyed the levers of governance.

36 For a case for why naturalists could not turn in confidence to such sensibilities, see James K. Beilby, *Naturalism Defeated? Essays on Plantinga's Evolutionary Argument against Naturalism* (Cornell Univ. Press, 2002).

37 Interestingly, Martin Luther King Jr. appears to have endorsed a view akin to this 'providentiality' view when, in his 'Letter from a Birmingham Jail,' he sets up the moral law of God as an independent standard. The standard, for King, is a measurement tool for acts of citizen dissent, as well as a basis to keep dissent from going off the rails, so to speak: "A just law is a man-made code that squares with the moral law, or the law of God. An unjust law is a code that is out of harmony with the moral law..." Martin Luther King Jr., "Letter from a Birmingham Jail", in *Liberating faith: Religious Voices for Justice, Peace, and ecological Wisdom*, ed. Roger S. Gottlieb (Rowman & Littlefield, 2003).

38 Note that a theistic contractarian, such as John Locke, could in fact have such confidence. Locke's major architectural concepts—the criteria of judgment for existential human

the Wolterstorffian can have about such exercises is something that we think equips him to respond to the chaos threat more effectively than non-providential views. It gives him, qua justifier of political authority, advantages over non-theistic contractarians (and also over reflective anarchists) vis-à-vis real-world feasibility questions. In other words, the Wolterstorffian can answer Huemer's core worries about the hypothetical contract while also assuaging the chaos concerns that might arise from Huemer's own alternative, reflective anarchism.

Finally, the Wolterstorffian can interact similarly constructively with Huemer's criticisms of consequentialism. More particularly, in a way that is foreign to consequentialism, we think that the Wolterstorffian's authority justification efforts are a natural fit for the dictates of the modern state. Consider the differences in the respective authority mandates that the two models justify. For starters, we agree with Huemer and we think, at most, that consequentialism justifies a minimal state — a system of crime protection, social rules, and military defense, and not a system of expansive political authority. Huemer reasons that the 'much worse' outcome that the minimal state prevents is a justification that ceases to exist once the state begins to do other things — such as, say, promote its citizens' flourishing. The minimal state is, as much as possible, neutral about such flourishing. Its job is to keep the peace, and not to promote citizen welfare.

The authority mandate that is available to the Wolterstorffian is more expansive than this. Central to the Wolterstorffian justification, as mentioned, is God's desire for 'shalom,' or, the 'flourishing of the people.' Qua benevolent, God desires the flourishing of his creation, and qua omniscient, God knows what is best for his creation. The 'shalom' concept does not then just mean that God wants our flourishing. It also suggests that God knows how, via governance delegations, actually to bring that flourishing about. So described, the 'shalom' concept fits a 'common-good' state better than a 'minimal' state. A governance model that proactively promotes citizen welfare is, more than a minimal state, an authority mandate that is appropriate for a God who seeks actively to facilitate human flourishing. School systems, civic infrastructure, and other public goods all are worthwhile undertakings for the Wolterstorffian so long as they promote the 'shalom' concept and do not trample the

agents — all include moral staples like law, right, God, and equality. See Kirstie McClure, *Judging Rights: Lockean Politics and the Limits of Consent* (Cornell Univ. Press, 1996).

rights of persons. As such, we think that to accept the Wolterstorffian's explanation of the post-Enlightenment state is to have reasons also for accepting that state's promotion of the common good—in a way that is difficult for consequentialism to do. So the Wolterstorffian's justification of modern authority structures is more conceptually and morally satisfying than that of consequentialism. Thus,

- I. The responses of the Wolterstorffian's justification of political authority to Huemer's criticisms have conceptual and moral advantages over the responses of C1 and C2 models.

It is, above all, the Wolterstorffian's theistic assumptions which equip him to answer Huemer's criticisms. Assumptions like 'God exists,' 'God is the creator,' and 'God delegates authority to governments' all suggest God's independent moral status, apart from the state. God is the authorizer and delegator of the 'performance authority' concept which equips the Wolterstorffian both to legitimize the government's authority and to treat governments realistically. And God's providential guidance is a basis for confidence that the citizens' dissents will not go off the rails. Finally, God's desire for 'shalom,' per Wolterstorff, is a basis for the 'common good' mandate of modern governance—and thus it synchs better than consequentialism with the ideals of the post-Enlightenment state and also the common-sense view that governments should have the authority to advance the common good. It might be thought that one could obtain benefits like performance authority or a robust common good just by subscribing to a non-theistic moral standards notion, apart from the state. States that fail by such standards—perhaps flunking the performance-authority test—lose their moral authority. This is a worthy point and of course we are open to further discussion of its merits as a well-known 'folk' intuition. But so far we are unconvinced because, like Aquinas and Locke, we think that the most philosophically rigorous version of such a view, natural law, requires a world laced with real moral valence. As such, it needs theistic backing in order to constitute a muscular authority conception (see our Aristotelianism reference in the section below). So, we think that

- II. The Wolterstorffian's theistic commitments are what equip him to answer Huemer's criticisms.

More generally, (5) suggests that any theistic account which makes similar assumptions or is similarly structured would likewise be so equipped. So, from (3), (4), and (5):

Lemma 1: models with the Wolterstorffian's theistic commitments and structure have conceptual and moral advantages over the most important contemporary justifications of political authority.

VI. AN ARGUMENT FROM POLITICAL AUTHORITY FOR GOD'S EXISTENCE

We want to end this article, perhaps surprisingly, with a more general conclusion about God's existence. In particular, our contention will be that Lemma 1 is abductive evidence for a theistic worldview. Our argument here will be just a sketch and a proposal for further studies — a full-length treatment, of course, would require a book.

Suppose the following:

III. There ought to be an adequate justification for political authority.

An epistemic seeming grounds this premise. We think most persons of good will have this seeming. Huemer certainly does, and much of his *Problem of Political Authority* is a search for such a justification. Moreover, a seemings appeal is appropriate here given the centrality of seemings in Huemer's own phenomenal conservatism. For Huemer, if S has no compelling defeater for p, then, as long as it appears to S that p, S is justified in believing that p.³⁹ In such a circumstance, if one has a seeming then, all things considered, one ought to consider that seeming as leading to a true belief. As such, per our argument, we assert that:

IV. Persons of good will who justifiably believe (6) have reasons to endorse authority justifications that have advantages over other such justifications.

In other words, we think that the ideals of phenomenal conservatism give persons who agree with Huemer's criticisms a foundation for acknowledging

39 Michael Huemer, "Phenomenal Conservatism and the Internalist Intuition", *American Philosophical Quarterly* 43 (2006).

the explanatory capacity of theism. But, more generally, we think also that in justifying its reasoning via an appeal to explanatory ability, our argument manifests an abductive structure. Abductive reasoning suggests that the explanatory success of a theory Y in accounting for a phenomenon X is a probable cause for believing Y to be correct. Given a body of evidence and a set of models explaining such evidence, the most probable of the available models is the one which best accounts for the evidence, provided that it is sufficiently good otherwise, *qua* explanation. Abductive conclusions, thus understood, do not follow logically from their premises. Instead, they are reached, first, through a duly-diligent assembly of evidential support, and, second, through a probability-based conclusion derived from that support. The duly-diligent philosopher who has found no better alternative explanation has probabilistic grounds for favoring the comparatively superior theory. In practice, in the abductive literature what this means is measuring the theoretical virtues of different explanations. Such virtues include the following:

- (a) Explanatory Scope: a theory's ability to explain a broad cross-section of the data.
- (b) Explanatory Power: a theory's ability to explain the data well.
- (c) Plausibility: a theory's plausibility, as determined via its coherence *vis-à-vis* other fields of inquiry.
- (d) Minimal Ad Hocness: a theory which is not ad hoc is preferable to theories which are.
- (e) Simplicity: all things considered, the simplest theory is preferable.⁴⁰

The theory which most deeply and extensively embodies these virtues is generally preferable, being a more coherent explanation of the evidence and, presumably, closer to the truth.⁴¹

40 This is the criteria that is used in William L. Craig and J.P. Moreland, *Philosophical Foundations for a Christian Worldview* (InterVarsity Press, 2017).

41 Note also that in order to assemble one's abductive evidence base, one must usually assume that the particular models that one is investigating are, compared to their peers, the best explanations of the evidence *vis-à-vis* the other available hypotheses. In our own case, in order to assemble our evidence base (i.e. C1 and C2), we are explicitly assuming in premise 1 that these particular models are, compared to their peers, the most relevant explanations of the evidence *vis-à-vis* the other available hypotheses.

The key abductive evidences of our own article have been (6), the widespread conviction that political authority ought to be justified, and also (3), the inadequacy of secular explanations in the areas we have highlighted. From this, we have noted that the reflective anarchist concludes, probabilistically, that no such explanation is available, and that modern forms of political authority are unjustifiable. Our own response to the evidence set, however, is to assert (4), probabilistically, that a theistic explanation has advantages over its competitors — including over reflective anarchism. A theory that asserts that ‘God exists,’ ‘God is an independent moral authority,’ ‘God is providential,’ and ‘God is omniscient,’ has justificatory advantages over both contractarianism and consequentialism, the most plausible of the contemporary secular foundations for political authority, and also moral advantages over reflective anarchism — at least on the subject of asocial side-effects. To be sure, it does not follow that, because of the explanatory superiority of the Wolterstorffian model on these particular matters, it ought to be preferred all things considered over its rival, secular accounts. Yet, upon inspection, we think there are few areas where such rival, secular accounts possess explanatory advantages over the Wolterstorffian model. For many readers, the most glaring area in which they might is probably the Wolterstorffian’s assumptions about theism’s plausibility — an objection which we will briefly engage in this article’s conclusion.

On the basis of the issues we have covered we think that the Wolterstorffian account better embodies theoretical virtues (a) and (b), having superior explanatory scope and also superior explanatory power, *vis-à-vis* the phenomenon at hand. This is especially noticeable with respect to legitimizing the robust authority of the state. The contractarian still lacks a way to legitimize the state’s power over all of its citizens, and, the consequentialist cannot explain how the state possesses robust authority. Moreover, the Wolterstorffian account makes greater space for exercises of dissent, via an appeal to providence, and thus that it does better *vis-à-vis* virtue (c), in synching harmoniously with the widespread real-world seeming that there ought to be room for citizen dissent. And again, the model’s ‘shalom’ idea is naturally more harmonious with the aims and intentions of real-world states, and thus its connections to real-world authority structures manifest virtue (d), minimal adhocness. The only theoretical virtue which we think does not give the model any advantages is (e), simplicity. But ontological parsimony ought only

to be a trumping value in circumstances in which the more complex account is not a better explanation on other grounds.⁴² It is typical abductive practice, when different models have differing levels of explanatory plausibility, sometimes to favor the more complex hypothesis so long as it embodies a superior mix of the other theoretical virtues.

All in all, theism is the hypothesis that does the best vis-à-vis the virtues of abductive reasoning and certain key aspects of the political authority topic — political realism, exercises of citizen dissent, and suitability vis-à-vis the characteristic services of states. Its superiority as a justification in these key areas is a reason for taking it to be true. If one subscribes to (6), the seeming that political authority ought to be adequately justified, and also (3), that no other (secular) theory is capable of doing this, then, we think, one ought to assert a probable basis for theism. Theism is a probable truth, reached via abductive reasoning, that is better than the alternatives at explaining the given phenomena, while also accounting for (4), the widespread seeming about the necessity of political authority justifications.

Thus, given Lemma 1 (i.e. Wolterstorffian-style models have advantages as political authority justifications over C1 and C2 models), we conclude:

Persons of good will who justifiably believe (6) have reasons, from Lemma 1, for endorsing theism.

To be sure there are other justifications of political authority that we (and Huemer) have not here considered: Socrates's gratitude criterion in the *Crito*, Ronald Dworkin's associative obligations in *Law's Empire*, and Waldron's duty of equal respect for the opinions of others in *Law and Disagreement*, all come immediately to mind.⁴³ Perhaps deserving of special mention is the Aristotelian-Thomistic account. Roughly, the idea here is that teleology is essential to politics: human persons and their faculties possess ends, and a political state is necessary to facilitate their achievement of such ends.⁴⁴ Humans are political animals who require the state in order to flourish as the sort of creatures

42 Note that certain alternative justificatory theories — Rawls's hypothetical contractarianism, for example — are highly complex as well, albeit in other ways than ontological parsimony.

43 Ronald M. Dworkin, *Law's empire* (Harvard Univ. Press, 1986) Jeremy Waldron, *Law and Disagreement* (OUP, 1999).

44 Fred Miller, "Presuppositions of Aristotle's Politics", <https://plato.stanford.edu/entries/aristotle-politics/supplement2.html>.

that they are. They therefore ought to obey the state.⁴⁵ While time constraints prevent us from engaging this view to the extent that it deserves, we do not see this view as being in conflict with our own. Aquinas shows convincingly via his 5th Way that one cannot make sense of persons or their faculties possessing ends or design plans without invoking God.⁴⁶ On the Aristotelian-Thomistic account, God's impartation to humans of the kind of nature that they have might in fact be part of the way God that grants authority to the political state.

Again, though, this paper is not really addressed to theism's sympathizers. It rather ought to be read as an attempt at an argument for God's existence within the parameters of contemporary analytic political philosophy. Most analytic philosophers do consider contractarianism and consequentialism to be the most plausible accounts of political authority.⁴⁷ Our assertion that the Wolterstorffian model offers more robust justificatory capacities ought thus to be seen as being an inference to the best explanation, based on a survey of the best (or at least the *most prominent*) of the available justifications. The model's plausibility überhaupt of course is something that must elsewhere be settled more comprehensively, and not just by an investigation of its solutions to the problems of other views. However, in the key areas that we have here highlighted — authority, realism, dissent, and common good suitability — the model does have advantages. Those persons for whom these areas of inquiry are important will, we think, find our argument intriguing.

45 Miller, "Presuppositions of Aristotle's Politics".

46 See both Aquinas' 5th Way and a contemporary defense of it in, Edward Feser, *Aquinas: A Beginner's Guide* (Oneworld Publications, 2013), 110–20. For an engagement of a more naturalistic or Footian Aristotelianism, see Erik Baldwin and Tyler Dalton McNabb, *Plantingian Religious Epistemology and World Religions: Prospects and Problems* (Lexington Books, 2018).

47 For further political authority views, see Leslie Green, *The Authority of the State* (OUP, 1989); Christopher Morris, *An Essay on the Modern State* (CUP, 2002); Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (OUP, 2003); Thomas Christiano, "The Authority of Democracy", *Journal of Political Philosophy* 12, no. 3 (2004); Rawls, *A Theory of Justice*; David Estlund, *Democratic Authority* (CUP, 2007); Robert Nozick, *Anarchy, State, and Utopia* (Basic Books, 2013); also, of course, Thomas Hobbes, *Leviathan* (OUP, 2008).

VII. CONCLUSION: TWO OBJECTIONS

One objection that we want here briefly to address is that, far from being realistic, an appeal to a divine figure is in fact an unrealistic justification of political authority. Many moderns have doubted the existence and/or the goodness of such a figure. To ascribe realism advantages to the Wolterstorffian authority model might in one sense seem plausible when one is operating from inside the model, as it were. But in another sense, from outside the model, its assumptions might be implausible on other, independent grounds. The greater explanatory power of the theistic hypothesis is perhaps undermined by the improbability of the hypothesis itself.

We want to stress, in response, that we have not here been asserting that theism does not incur doxastic costs.⁴⁸ Innumerable books and articles have been devoted to that topic, and our own view is that theism does in fact incur such costs. But at the same time we also think that theism has been defended in increasingly responsible ways in recent decades via arguments from the origins of the universe, the existence of morality, the existence of consciousness, the contingency of the universe, and so on.⁴⁹ While this is not the time or place to inspect such defenses, we do here want to acknowledge, in response to the objection, that our argument assumes that these defenses are plausible, or, at the very least, that they suggest that theism should be taken seriously, as a peer model, alongside other models of governance.

In fact our argument, being probabilistic, is not a standalone demonstration of God's existence. Qua explanation, it assumes theism to be plausible on other grounds as well — or at least that the extra-political evidence is not so tilted against theism as to make an abductive argument impossible. Useful, as a conceptualization of this assumption, might be a short illustration of our inference of theism's probability relative to non-theism, vis-à-vis the justification of political authority.⁵⁰ Let *G* be the hypothesis that 'God exists' and $\sim G$, that 'God does not exist.' Let *AJPA* stand for the seeming 'there ought to be

48 Think of the problem of evil or the deliverances of evolutionary biology, for example: Peter van Inwagen, *The Problem of Evil* (Clarendon, 2008); Alvin Plantinga, *Where the Conflict Really Lies* (OUP, 2011); Eleonore Stump, *Wandering in Darkness* (Clarendon, 2010).

49 See William L. Craig and James P. Moreland, eds., *The Blackwell Companion to Natural Theology* (Wiley-Blackwell, 2012); Richard Swinburne, *The Existence of God* (Clarendon, 2004).

50 Adapted from William Lane Craig, Public Correspondence listed on Reasonablefaith.org.

an adequate justification for political authority,’ and imagine the following probability calculus:

1	2	3
Pr (G AJPA)	Pr (G)	Pr (AJPA G)
-----	= -----	x -----
Pr (~G AJPA)	Pr (~G)	Pr (AJPA ~G)

Our article’s implication has been that ratio one is some real number greater than one because it suggests that God’s existence is more probable than his non-existence, relative to the seeming that there ought to be an adequate justification of political authority. Ratio three is constituted by this article’s abductive argument, that the probability calculus favors God’s existence, *ceteris paribus* and given the seeming that political authority ought to be adequately justified. In response, then, to this objection about the improbability of the theistic hypothesis, we certainly are willing to admit that the correctness of ratio one is dependent upon a favorable outcome of ratio two — namely, that the prior probability of God’s existence is not prohibitively less than the prior probability of his non-existence. The point of the diagram is just to illustrate our assumption, predicated upon the defenses listed above, that the world’s sum total of non-political background information, as represented by ratio two, does not render theism prohibitively less probable than non-theism. Nevertheless, we also acknowledge that, on independent doxastic grounds, there are persons of good will who will disagree with this. Our hope, on the basis of Lemma 1, is that such persons could at least agree that the increasing moral and intellectual rigor of theistic viewpoints is deserving of attention in today’s political authority conversation.

A second objection, aimed at our abductive inference, is that it is hasty to predicate an abductive argument for God’s existence on the limited evidence base that we have listed here. Our argument might not seem to be duly-diligent because it has referenced only a single body of criticisms, and only a handful of authority justification theories. Our first response to this objection is to emphasize again that our suggestion of an abductive argument for God’s existence is intended to be just that and nothing more. Although we think that an inspection of further evidences would yield similar results, all that we have attempted here is a sketch of a model and some proposals for further inquiry. But, as a second and more general response, we do think also that Huemer’s

criticisms are recognizable as 'types' which are similar to numerous other, long-standing criticisms of modern authority models. Since one cannot, in making an abductive suggestion, inspect every possible evidence piece, our choice here has been only to inspect the particular 'types' which best represent the rest. We consider the explanatory capacities of theistic accounts of political authority — such as the Wolterstorffian's — to be robust, and we think that if one were to compare theistic accounts to the other justificatory hypotheses that time has kept us from investigating, such accounts would likewise have advantages. So Wolterstorffian theism is not just the best of a bad lot of justifications.⁵¹ To accept Wolterstorff's approach is not only to resolve some longstanding concerns about authority justification, but also, at the same time, to avail oneself of explanatory resources that suggest theism's correctness.

Finally, theism is not a worldview that stands or falls on a single argument. It is, rather, like a spider's web, and its various argumentative supports are imaginable as each being nodes of that web. Our abductive argument here is intended to be one such node. When placed alongside numerous other such arguments, we think that it constitutes an intriguing case for theism — at least for those persons who think that political authority ought to be justified in the key areas of realism, dissent, and common good suitability, but who are unimpressed by the resources of contractarianism and consequentialism.

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51 See Bas C. van Fraassen, *Laws and Symmetry* (OUP, 1989).

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