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## **Between Command and Condition Spinoza on the Rule of Law**

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### I. Introduction

According to one influential line of argument, Spinoza's thought provides a singular treatment of the "theological-political problem," which is at root a legal question: "Are politics and the legal order ruled by God (or the gods) and therefore by God's representatives on earth? Or is religion and therefore priestly authority ultimately subject to human rational decision making?"<sup>1</sup> Specific details aside, what is striking about this formulation is its Platonist cast as a "question of Who rules Whom?"<sup>2</sup> To be sure, key features of Spinoza's work – in particular, the Erastianism of the *Theological-Political Treatise* – seem precisely to turn on the question of rule and its justification. But in many other and perhaps more fundamental respects, his writings comprise a sustained critique of the metaphysics and politics of rule or sovereignty. This paper explores some salient connections between the theological, political, and legal dimensions of that critique, understanding critique to mean not a rejection but "a critical dissection of a phenomenon that simultaneously illuminates both what its internal contradictions are and what meaning and world it generates."<sup>3</sup> Although Spinoza does not entertain the notion that principles and practices of rule might altogether be abolished from human association, neither does he reduce political life to the business of domination—regardless of whether such domination is considered to be legitimate, good, or a "wise" form of rule.<sup>4</sup> Ultimately, I wish to suggest that one of the ways in which Spinoza resists that reduction is by refiguring the very

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<sup>1</sup> Arthur J. Jacobson and Steven B. Smith, "Introduction: Spinoza's Law" *Cardozo Law Review* 25, no. 2 (2003), 497. In an earlier work, Smith formulates this problem as simply: "Should religion rule politics, or should politics rule religion?" See Steven B. Smith, *Spinoza, Liberalism, and the Question of Jewish Identity* (New Haven: Yale University Press, 1997), 2. The term "theologico-political problem" is borrowed from Leo Strauss. See Leo Strauss, "Preface to Hobbes politische Wissenschaft," in Kenneth Hart Green, (ed.) *Jewish Philosophy and the Crisis of Modernity* (Albany: SUNY Press), 453-56.

<sup>2</sup> Hannah Arendt, "On Violence," in *Crises of the Republic* (Houghton Mifflin Harcourt, 1972), 142.

<sup>3</sup> Wendy Brown, "The Sacred, the Secular, and the Profane: Charles Taylor and Karl Marx," in Michael Warner, Jonathan VanAntwerpen, and Craig Calhoun (eds.), *Varieties of Secularism in a Secular Age* (Harvard University Press, 2010), 87.

<sup>4</sup> The notion that a "wise sovereign" plays a central role in Spinoza's politics appears in several recent interpretations. See, e.g., Amelie Oksenberg Rorty, "The Politics of Spinoza's Vanishing Dichotomies," *Political Theory* 38, no. 1 (February 1, 2010), 131-141, and Susan James, "Law and Sovereignty in Spinoza's Politics" in Moira. Gatens (ed.) *Feminist interpretations of Benedict Spinoza* (University Park: Pennsylvania State University Press, 2009), 220.

nature of law and decoupling it from the purposes of sovereignty.

Spinoza first establishes his arguments about state sovereignty through an engagement with various theological discussions, including those that pursued comparisons between the 17<sup>th</sup> century Dutch republic and the ancient Hebrew commonwealth (*Republica Hebraeorum*). To begin my own discussion, I examine Spinoza's portrait of the *Republica Hebraeorum* as political case study in "moderate rule" and voluntary obedience (section II). I then point to some instructive tensions in Spinoza's characterization of the modern state, foregrounding a conceptual continuity between that account and his history of ancient Israel on the topic of "devotion" (section III). In a final step, I consider the extent to which Spinoza's conception of law inscribes a challenge to sovereignty into the framework of the state itself (section IV).

## II. Mosaic Authority: Devotion to and rule by Law

The interpretive task that occupies Spinoza for nineteen of twenty chapters in the TTP is meant "to indicate the main prejudices that prevail regarding religion...and then again the prejudices regarding the right of civil authorities" (TTP pref 391; trans. modified).<sup>5</sup> A critical treatment of matters theological and political – particularly, the question of their relation – is "chiefly necessary," says Spinoza, for his ultimate vindication of citizens' freedom of judgment (*ibid.*). To appreciate why, it helps to recall that, at the time, Scripture was the main ideological reservoir from which influential voices in the United Provinces were drawing a normative model of the state, the ancient Hebrew republic (*Republica Hebraeorum*).<sup>6</sup> Comparing the Netherlands to the elect nation of Israel was a tradition dating back to the early days of the Dutch the Revolt from Spanish Habsburg rule. During the second half of the 17<sup>th</sup> century, however, invocations of Israel served increasingly to justify the repressive practices of the Dutch Reformed church in its attempts to redefine public morality.<sup>7</sup> In a letter recounting his reasons for writing "a treatise on my views regarding Scripture" (i.e., the TTP), Spinoza clearly alludes to this project of the *ecclesia militans* when he declares that the "freedom to philosophize and to say what we think...is in every way suppressed by the excessive authority and egotism of the preachers" (Ep 30). His defense of such freedom—which, on Spinoza's view, extends to all citizens and all subject matter—redeploys Scripture against the agencies of "excessive authority" in a type of immanent critique. Indeed, it is through his reading of the ancient Hebrews' travails, as set out in the Bible, that Spinoza ventures some of his most topical and subversive political theses.

One of his many provocative claims is that the Israelites' storied election can only be understood in a worldly and historical sense, as consisting in "the material success and prosperity of their state" (TTP 3.418, 3.420).<sup>8</sup> Moses and his people imagined their laws to be

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<sup>5</sup> References to Spinoza's *Theological-Political Treatise* (TTP), *Ethics* (E) *Political Treatise* (TP) and *Letters* (Ep) will appear parenthetically in the body of the text along with standard internal references. Unless noted, I follow Samuel Shirley (ed.), *Spinoza: Complete Works* (Indianapolis: Hackett, 2002).

<sup>6</sup> Pierre-François Moreau, "Spinoza et l'autorité d'un modèle," in *Spinoza: État et religion* (Lyon: ENS Éditions, 2005), 21-22.

<sup>7</sup> Wiep Van Bunge, *From Stevin to Spinoza: An Essay on Philosophy in the Seventeenth-Century Dutch Republic* (Leiden: Brill, 2001), 129-131.

<sup>8</sup> Spinoza focuses on the period of the Judges, between the death of Moses and the advent of Saul, as the zenith of the Hebrews' social-political cohesion.

decrees of a sovereign God, but, properly speaking, the Commandments were simply a refashioning of the Hebrews' unique superstitions into the form of civil law (TTP 5.436).<sup>9</sup> With the demise of their commonwealth, Spinoza argues, their laws ceased to hold any obligatory force; in consequence, the *Republica Hebraeorum* cannot be claimed as a standard for other polities. And yet, while rejecting the received understanding of the Hebrew state's exemplarity, Spinoza still portrays ancient Israel as an exemplar of some sort—namely, as a singular response to the basic challenge posed to any state: that of coordinating the fluctuating and often antagonistic passions of its constituents, rulers and ruled alike (TTP 15.544, TTP 17.538, TP VI.3).<sup>10</sup> His assumption is that the ancient commonwealth can prove instructive as a case study in securing civil order by means of “moderate rule” and voluntary obedience (TTP 5.438, 17.548). From this value-free perspective, as it were, ancient Israel stands not as an authoritative model of moral order but as an historical model of (theological-political) authority.<sup>11</sup>

The exceptional durability and integrity of the *Republica Hebraeorum*, in Spinoza's description, was owing to the manner in which its governmental apparatus rooted itself in the very “motive of self-interest (*ratio utilitatis*), the strength and life of all human action” (TTP 17.547). This motive, as embodied and enacted by the ancient Hebrews, was somehow “effective in *deterring* citizens *from contemplating* defection *and from ever wanting* to desert their country” (ibid.; my emphasis). In even stronger terms, Spinoza holds that, in this regime, “nobody desired what was forbidden and all desired what was commanded” (TTP 17.548).

What political reality does this idealization describe? Spinoza provides several concrete indications. To begin with, a host of practical measures, macro- and micro-political, reinforced the self-affirmative character of the Hebrews' civil obedience. For example, in preparing his succession, Moses refused to implement a hereditary monarchy, opting instead for an institutional balance between magisterial power and theocratic authority that left inhabitants free from arbitrary, “human rule,” (subordination to equals) but equally subject to the Law (of God) (TTP 17.548). In addition, citizens exercised a strong right to possessions, owning their property in perpetuity, and holding land on equal terms to the governing captains of the tribes (TTP 17.547). And the rule of charity to one's neighbor was instantiated as a set of welfare laws, which sustained a form of distributive justice: “if any man was compelled by poverty to sell his

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<sup>9</sup> Contrary to the anthropological explanation Spinoza gives in *Ethics* I, appendix, for the origin of finalist (i.e., superstitious) prejudices, he makes a historical claim in the TTP that the ancient Hebrews introduced such prejudices as an ethnocentrism which was subsequently adopted by (and adapted to) nearly all other peoples (TTP 6.444-5).

<sup>10</sup> For other discussions of the exemplary role of the Hebrew state in Spinoza, see Michael Rosenthal, “Why Spinoza Chose the Hebrews: The Exemplary Function of Prophecy in the *Theological-Political Treatise*,” in Genevieve Lloyd (ed.), *Spinoza: Critical Assessments, Vol. 3* (London: Routledge, 2001); Nancy Levene, *Spinoza's Revelation: Religion, Democracy, and Reason* (Cambridge: Cambridge University Press, 2004), ch. 4; Moreau, “Spinoza et l'autorité d'un modèle,”; Sylvain Zac, “Spinoza et l'Etat des Hébreux,” *Philosophie, théologie et politique dans l'oeuvre de Spinoza* (Paris: J. Vrin, 1979).

<sup>11</sup> As Arendt defines it: “[A]uthority precludes the use of external means of coercion; where force is used, authority itself has failed. Authority, on the other hand, is incompatible with persuasion, which presupposes equality and works through a process of argumentation. Where arguments are used, authority is left in abeyance. Against the egalitarian order or persuasion stands the authoritarian order, which is always hierarchical.” See Hannah Arendt, *Between Past and Future* (New York: Penguin, 1993), 93.

farm or his field, it had to be restored to him when the jubilee came round, and there were other similar enactments to prevent the alienation of real estate” (ibid.).

Also included in the various mechanisms that served to “fortify the hearts the Hebrews to endure all things for their country” were several checks on the power of those in positions of rule (ibid.). Spinoza remarks that governors could not easily disguise misdealings with the trappings of legality because these individuals did not possess the right to interpret the laws (the charge of the Levites, who conversely, wielded no powers of governance), and because the true interpretation of the laws was so obvious in many cases (TTP 17.545). Indeed, as the entire populace was required to assemble every seventh year to learn the laws from the priest, and to read the book of Law each on his own, the governing tribe captains, even “if only in their interests,” had to rule in accordance with the laws. Insofar as the captains performed in this charge, they were esteemed ministers of God’s kingdom; if they deviated, they “inevitably encountered the bitterest hatred—such as religious hatred is wont to be—on the part of their subjects” (ibid.). Arming the people as guardians of a Law believed to issue from God Himself thus deepened their own investment in the perseverance of the state. As did the daily “schooling in disciplined obedience,” which imposed the duty of following a prescribed law “in all that they did,” from work to leisure (TTP 17.548, 5.440).<sup>12</sup>

In connection with these details of the Hebrew state, it is imperative to note: 1) that Spinoza views obedience as “not so much a matter of outward act as internal act of mind” (TTP 17.537); 2) that, in his estimation, “nothing can so captivate the mind (*capuntur animus*) as joy springing from devotion (*devotio*), that is, love mingled with awe (*admiratio*)” (TTP 17.548). For these two points disclose the psychological and theological-political core of the Mosaic system of authority as Spinoza understands it.

From the viewpoint of the social psychology of affect laid out in the *Ethics*, *devotio* is a form of love based on awe or wonder (*admiratio*); it consists of the veneration of someone whose talents are thought to be exceptional (EIII52s, EIIIdefAff10). Moses evidently fits the description of such a charismatic figure: he was able to obtain sovereignty, Spinoza explains, because he “surpassed all others in divine power which he convinced the people that he possessed” (TTP 5.439). And by refashioning the given religious beliefs of his people into practices of civic devotion—by linking the Hebrews’ “awe” to objects of love more so than to those of fear—Moses provided a more stable foundation for his rule. One might say, then, that on Spinoza’s reading, the formula for Mosaic authority was “to make the people do their duty from devotion rather than fear” (TTP 5.439). It is worth noting that in a nearly identical passage, only a matter of lines preceding this one, Spinoza uses the term *sponte* instead of *devotione*: “[Moses] made every effort to see that the people should do their duty *spontaneously* (*sponte*) rather than through fear” (ibid.; my emphasis).<sup>13</sup>

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<sup>12</sup> “The people could do nothing without being required at the same time to remember the law and to follow its commands, which were dependent solely on the ruler’s will. Ploughing, sowing, reaping were not permitted at their discretion, but had to accord with the fixed and determinate command of the law. They could not even eat, dress, cut their hair, shave, make merry or do anything whatsoever except in accordance with commands and instructions laid down by the law. And this was not all; they had to have certain signs on their doorposts, on their hands and between the eyes, to give them constant reminder of the duty of obedience” (TTP 5.440).

<sup>13</sup> The term *sponte* could also be rendered as “willingly” or “automatically.” Cf. TTP 20.567, where Spinoza alludes to the Hebrews as *automata*.

Only in wholly despotic regimes do individuals obey almost entirely out of fear. The extreme case of this form of rule, for Spinoza, is the regime of the Turks, whose peace and stability is an imposed state of “solitude,” “slavery, barbarism, and desolation” (TP VI.4, V.4, TTP pref 389). With “their mass of dogma,” the Turks “gain such a thorough hold on the individual’s judgment that they leave no room in the mind for the exercise of reason, or even the capacity to doubt” (TTP pref 389). A regime of this sort is, by Spinoza’s logic, the most self-defeating because it demands that subjects do “what they are most opposed to doing,” that is, to (re)act by constraint of overwhelming fear, “taking no account of the usefulness and necessity of the action to be done” (*nec rationem utilitatis et necessitatis rei agenda tenent*) (TTP 5.438).<sup>14</sup> Fearful subjects are inclined to desire the emancipation from such constraint and fear—often through their ruler’s misfortune or injury—even if this would run counter to their own natural interest in self-preservation.

Obedient actions undertaken out of love are thus comparatively “freer” – more willing, spontaneous, or automatic – than those fuelled by fear (and its reciprocal affect, hope), because they orient subjects toward an affirmation of their own powers. On such grounds, the Hebrews clearly enjoyed a greater degree of freedom than the Turks. Nonetheless, these regimes bear a significant family resemblance, which is a heavy reliance on imaginary – or perhaps, political theological – modes of identification. Again, this point is borne out in the psychology of the *Ethics*, which links devotion to “wonder” (*admiratio*) and, in turn, to ignorance.<sup>15</sup>

Inverting a well-known phrase, one could say that, for Spinoza, theology rather than philosophy begins in wonder (*admiratio*).<sup>16</sup> As he sees it, the feeling of awe or wonder arises from one’s inability to grasp a thought in relation to other thoughts and causal networks. In simpler terms, wonder expresses an ignorance of the conditions of one’s desires and actions. Spinoza contends that this type of perception or imagining reverses cause and effect, that it misrecognizes the immanent power and infinite causal web of Nature as an effect of transcendence (Elapp; cf. TTP pref 388).<sup>17</sup> That is why, in its various forms, it qualifies as a “theological” mode of apprehension. Likewise, systems of rule that are predominantly “theological” also confound cause and effect by instrumentalizing law itself. Law then becomes functional to the maintenance of hierarchical relations, which is why the obligation to follow it requires an external ground or legitimation that compels obedience: rewards in the afterlife, threat of punishment, the national interest, etc. Put another way, theological modes of perception and practice do not promote good conduct for its intrinsic goodness and the

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<sup>14</sup> The despotism of the Turks is exceptional or atypical, for Spinoza, insofar as it institutionalized superstition to a greater degree and with greater stability than any other regime.

<sup>15</sup> “Although the voice which the Israelites heard could not have given those men a philosophical or mathematical certainty of God’s existence, it sufficed to strike them with awe of God (*admiracione Dei*)...and to induce them to obedience” (TTP 14.519).

<sup>16</sup> “For this is an experience which is characteristic of a philosopher, this wondering: this is where philosophy begins and nowhere else.” See Plato, *Theaetetus*, in John M. Cooper (ed.), *Plato: Complete Works* (Indianapolis: Hackett, 1997), 15. Cf. Aristotle, *Metaphysics* in Jonathan Barnes (ed.), *The Complete Works of Aristotle, vol. 2* (Princeton: Princeton University Press, 1984), 982b11-20; Thomas Aquinas, *Summa contra Gentiles*, trans. V.J. Bourke (Notre Dame: University of Notre Dame Press, 1975), III.25.

<sup>17</sup> Cf. Gilles Deleuze, *Spinoza: Practical Philosophy*, trans. Robert Hurley (San Francisco: City Light Books, 1981), 19-21.

knowledge thereof (a “command” that Spinoza argues “comprehends the natural Divine Law in its entirety”); instead, they command obedience to the power of others (cf. TTP 4.429-30).<sup>18</sup>

Thus, even though Spinoza seems to idealize the remarkable cohesion of the Hebrews, his terminology—which shows that devotion always involves a subordination of devotees—marks the ambivalence of their collective life as a type of voluntary servitude. The civic devotion of the ancient Israelites amounts to a pseudo-liberty, the consciousness of a desire to “freely” obey God and country. Important passages of the *Ethics* declare this “puerile” view of freedom and political life to be pervasive: the infant thinks she freely seeks milk, the timid man thinks he freely chooses to flee, and the gossip experiences her torrent of words as free speech (EIII2s; cf. EV39s). These appeals to experience lend rhetorical color to Spinoza’s point that while freedom is commonly thought to be located in a sovereign decision of the mind, or in an act of will, decision itself is simply an expression of appetite, which in turn depends on “the varying disposition of the body” (EIII2s). For the most part, people are “conscious of their action and ignorant of the causes by which they are determined” (ibid.; cf. EIVpref). They are disposed to a variety of different passions and perceptions beyond their control and comprehension. The narrative of the Hebrew commonwealth throws light on the work of government in steering these affections in such a way that subjects are moved to experience themselves as freely, or “automatically” (*sponte*) obeying the Law.

### III. Modernizing statecraft, pluralizing devotion

Spinoza’s political history of ancient Israel appears to set the stage for a contrasting account of modern government, as if he might offer something along the lines of Constant’s later juxtaposition of ancient and modern liberties. Spinoza gives the impression, after all, that the political independence of the *Repubblica Hebraeorum* was made possible by the almost complete subjection of individual citizens’ thought and action to the authority of the Law. By contrast, the stated aim of the TTP is to argue the indispensability of citizens’ independent judgment for the collective goods of peace and piety, which Spinoza subsumes under the name of “common liberty.”<sup>19</sup>

However, peculiarities in his account complicate the contrast. To begin with, he finds “an exact parallel” between the character of the social pact in ancient (Hebrews) and modern instances; it is a type of “common consent” (TTP 19.559).<sup>20</sup> Spinoza’s depiction of the dutiful (and heteronomous) Hebrews, in a similar vein, coincides with his formal definition of the legal subjects of a democracy. In chapter 16 of the TTP, he distinguishes these subjects from slaves in the following way: “A slave is one who has to obey his master’s commands which look only to

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<sup>18</sup> See TTP 2.413, 5.439 for how this pertains to the Israelites. Cf. Moira Gatens and Genevieve Lloyd, *Collective Imaginings: Spinoza, past and present* (London: Routledge, 1999), 125.

<sup>19</sup> “To invest with prejudice or in any way coerce the citizen’s free judgment is altogether incompatible with common liberty” (*quandoquidem communi libertati omnino repugnant, liberum uniuscuiusque iudicium praeiudiciis occupare, vel aliquo modo coercere*) (TTP pref 390; trans. modified).

<sup>20</sup> “[I]t was necessary that each one of [the Hebrews] should first surrender his natural right, and that all should by common consent resolve to obey only what was revealed to them by God through prophecy. This is an exact parallel to what we have shown to be the development of democracy, where all by common consent resolve to live only by the dictates of reason” (TTP 19.559).

the interests of him who commands; a son is one who by his parent's command does what is in his interest (*utile*); a subject is one who, by command of the sovereign power, acts for the common interest (*utile*), and therefore for his own interest (*utile*) also" (TTP 16.531; trans. modified). Here and in the characterization of the Hebrews, the salient point is that to be subject to legal domination (rule that is in one's "interest") requires a certain freedom from arbitrary rule and, thus, from outright servitude; but it nevertheless sets in place an inequality or paternalism between structures of governance and their addressees. Legal domination remains domination, albeit "moderate." Put the other way around, duly constituted law does not automatically make one free. Whence Spinoza's various references to the Hebrews' approach to Law as "puerile" (e.g., TTP 12.504) and the implicit Latin pun in the passage above: sons who are not enslaved remain *liberi*, which can be rendered both as "free persons" and as "children."<sup>21</sup>

How, then, to interpret the elevated importance of individual liberty as the basis of modern political foundations in Spinoza's politics? How might "the citizen's free judgment" be governed if it is not to be "prejudiced"? Is individual freedom of this sort simply an ideological notion, an effect of governance? In this section, I approach these issues by showing how Spinoza selectively employs lessons from the ancient Hebrew case. He incorporates these lessons into another treatment of statecraft, one that grapples with the consequential shift Christianity effected in theological-political imaginaries. I place particular emphasis, again, on the concept of devotion (*devotio*). I argue that Spinoza recasts it—and more precisely, pluralizes it—in order that it serve a foundational role for modern civil authority. He thereby reinterprets rather than rejects the authoritative role of religion for the art of governing subjects' passions and perceptions. But in so doing, he also invites a perspective on law and politics that escapes the sacred circle of moderate rule and voluntary obedience.

As Spinoza has it, Christ's teachings repositioned the imagined location of the Divine Law from the exteriority of one nation's (Israel) civil decrees to the "hearts" of all humans, rendering God's revelation immediately available (TTP 18.552, 12.506, 5.436, 4.431). Christ was able to grasp and to communicate this Law in universal form, that is, not as a law in the traditional prescriptive sense but as an exhortation to charity—to love one's neighbor as oneself (TTP 14.515, 12.508). This appropriation of Christianity contributes to an argument that the essence of Scripture, the "universal or catholic faith," consists of a "simple message" urging obedience to God through the practice of charity and justice (TTP 14.517, 12.506). Spinoza then proceeds to take the operative notion of faith to be civil behavior, or as he says following the Apostle John, "good works." Here, what matters publicly is what individuals do unto others, not the specifics of what they understand themselves to be doing, i.e., their opinions and doctrines: "If his works are good, he is a believer, however much he may differ in religious dogma from other believers; whereas if his works are evil, he is an unbeliever, however much he agree with them verbally" (TTP 14.516).

By the TTP's penultimate chapter concerning the "rights over matters of religion," Spinoza pushes this argument to a more concrete theological-political conclusion: every individual retains the "sovereign right" to interpret the meaning of religious practice (charity)

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<sup>21</sup> Susan James remarks on this pun in "Democracy and the good life in Spinoza's Philosophy," in Charlie Huenemann (ed.), *Interpreting Spinoza: Critical Essays* (Cambridge: Cambridge University Press, 2008), 144.

for himself, so long as the practice holds the place of supreme authority.<sup>22</sup> And this can happen only on condition that the practice of charity is secured, enforced and regulated. Since the civil sovereign alone wields jurisdiction over the entire domain of action, charity can “acquire the force of law” only through the mediation of the state (TTP 19.558). Works of charity will always and only be recognized by the state as works of civil obedience and civil justice (TTP 19-560-1).

In this manner, Spinoza’s reinterpretation of scripture casts the “universal faith” as the ideology of state ideology. That is, the faith to which the modern state is to give (the) force (of law), and by which it legitimates its domination, is based in the multiplicity of its subjects’ singular beliefs: the stories that individuals tell themselves about law and God/Nature.<sup>23</sup> His point is that the state does best to make itself the “ground of security” for the myriad ways in which individuals imagine themselves to be just (TP III.3). When the “universal” core of scripture is actualized as public morality, the notion of civic devotion is made more encompassing, conceding to individuals a “freedom” to obey in a way that best affirms their own unique character and judgment (TTP 14.516-17). The state thus maintains a diverse imaginary of devotional expression so long as this diversity yields civility, which is to say, constituents’ affirmation of civil law.<sup>24</sup> As with the analysis of the Hebrew state, Spinoza appeals here to the idea that practices of obedient devotion inspire passions that are less prey to infidelity than the fluctuations of hope-fear that attend superstitious practices.

Recall, the formula for the Mosaic system of authority was that people “do their duty from devotion” (*devotione*) or “willingly” (*sponte*), “rather than from fear.” Spinoza reinterprets this formula for “modern times” in his declaration that every individual is “duty bound” to adapt the fundamentals of the “universal faith” to his own convictions and character (*ingenium*) (TTP 19.562, 14.516-18). For example, the first of the seven articles of this faith stipulates that God, “the exemplar of true life,” exists (TTP 14.517).<sup>25</sup> What it means to be an exemplar remains a matter of interpretation. Is God to be understood in anthropomorphic fashion as a being with a just and merciful disposition, an example to be imitated? Or is God to be understood in some other way, such as the vital principle of the natural universe? On the latter view, it is not because God is just and merciful that one ought to be just and merciful. Rather, it is because God is God that individuals are these things, “because all things exist and act through him and consequently we, too, understand through him, and through him see what is true, just, and good” (TTP 14.518). These divergent interpretations imply the existence of an array of others, more and less “theological” or “philosophical.” Spinoza portrays the decision as to which interpretation is true—traditionally, the concern of theology—as irrelevant to faith

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<sup>22</sup> “And here I acknowledge no distinction whether it is by the natural light of reason or by revelation that God teaches and commands the true practice of justice and charity, for it matters not how the practice of these virtues is revealed to us as long as it holds the place of supreme authority and is the supreme law for men” (TTP 19.558).

<sup>23</sup> See Pierre-François Moreau, “La duperie de soi,” in *Problèmes du Spinozisme* (Paris: J. Vrin, 2006), 86.

<sup>24</sup> For an example of how this might work in an aristocracy, see TP VIII.46.

<sup>25</sup> The other articles, omitting Spinoza’s brief explication of each one, are: 2) “God is one alone”; 3) God is omnipresent, and all things are open to him”; 4) “God has the supreme right and dominion over all things”; 5) “Worship of God and obedience to him consists solely in justice and charity, or love towards one’s neighbor”; 6) “All who obey God by following this way of life, and only those, are saved”; 7) “God forgives repentant sinners.” See TTP 14.517-18.



and thus to civil obligation. One need not justify in a definitive way what moves one to undertake works of charity and justice.

Spinoza's general point about the "theological" dimension of political foundations is one that finds echoes in the most noteworthy theoreticians and critics of modern sovereignty, from Machiavelli and Hobbes, to Hegel and Marx. It is to say that, in one way or another, devotion to the state as the supreme guarantor of life and security becomes the ideological ground or modern condition for rule. As Spinoza puts this: "devotion to one's country is the highest form of devotion that can be shown; for if the state is destroyed nothing good can survive, everything is endangered, and anger and wickedness reign supreme amidst universal fear" (TTP 19.560).

By the same token, his retention of the notion of *devotio* carries forward the ambivalence of a civil relation forged on this basis. Given its basis in a certain ignorance or passivity, it is unclear why devotion to, say, a country is any less prone to degenerate into cycles of fear and hatred than purportedly "superstitious" beliefs.<sup>26</sup> Indeed, nothing in the content of civic devotion would seem to guarantee that it will engender active affects of reason rather than, say, passive affects of hope and fear—the same affects that sustain superstitious modes of identification and the aspiration to dominate. As Spinoza so acutely observes: "Words acquire a fixed meaning solely from their use: if in accordance with this usage they are so arranged that their readers are moved to devotion, then these words will be sacred...[I]f these words are arranged differently, or if by custom they acquire a meaning contrary to their original meaning, then both words and book will become impure and profane instead of sacred" (TTP 12.505). Finally, devotion, with its connection to *admiratio*, is an affect that perpetuates relationships of subordination. This was the cautionary tale of the Hebrew State, even or especially when its subjects were idealized as perfect devotees.

How, then, is Spinoza's account of the modern body politic not simply a useful script for enacting new forms of subjection and "legitimate" domination? The answer, I would argue, lies in the extent to which Spinoza's conception of law involves more than a critique of natural and revealed theology (to the effect that he shows neither laws of nature nor those of Scripture to possess any binding force). More radically still, it launches a critique of the theological conceit that sustains many "secular" accounts of modern politics: namely, the sovereignty of law over political life. In short, Spinoza challenges the identification of law's purpose with the ends of the state. As with the undecidability of the "catholic faith," he demonstrates that the meaning of law—and, with it, the sense and scope of political association—is open to contestation and, in consequence, to more adequate interpretation and practice.

#### IV. Law without end

Spinoza evaluates polities as much as human individuals from an immanent perspective of virtue. He defines virtue of this sort as the autonomous development of one's power to persevere in existence (EIVdef8). One is virtuous when one acts rather than when one is acted upon; and "we are active only insofar as we understand" (EIV24p). A polity, like an individual, is

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<sup>26</sup> Spinoza suggests, in fact, that intense hatred is easily or naturally conjoined with strong forms of devotion. He describes the "patriotism of the Hebrews" as a "hatred of other nations," a "daily invective...that had its source in strong devotion or piety" (TTP 17.547).

in this respect maximally potent, or most in possession of its right (*maxime sui juris esse*) to the degree that it understands and organizes the conditions of its perseverance (TP V.1, V.6). On this view, being maximally *sui juris* is not a matter of mastering or controlling those ambient conditions and constituent relations but of augmenting one's ability to discern which will prove most empowering. How does this work for a body politic? How is it determined by the powers of its constituents – the multitude – and how do these powers best compose? (TP V.1, II.11). Running throughout Spinoza's major works is a crucial textual thread that expands upon this notion of virtue or maximal strength and indicates the beginning of a response to these questions. Reading Spinoza along this thread brings into view the challenge of creating the conditions for another type of law, one that is decoupled from the finality of sovereignty.

The "best condition of a state (*imperium*)," Spinoza argues in the *Political Treatise*, "is easily discovered by considering the purpose of civil order (*ex fine status civilis*), which is nothing other than peace and security of life" (TP V.2, trans modified; cf. TP I.6, TTP 4.427).<sup>27</sup> What is the character of this peace, and moreover, what kind of life is to be secured? Spinoza elaborates: peace "is not just the absence of war, but a virtue which comes from strength of mind (*ex animi fortitudine oritur*)" (TP V.4). And in speaking of "life," he adds the qualification that he is "speaking of human life, which is characterized not just by the circulation of the blood...but especially by reason, the true virtue and life of the mind (*quae maxime ratione, vera Mentis virtute, & vita definitur*)" (TP V.5). In various related passages, Spinoza's allusions to the "purpose" (*finis*), "nature," and "true principle" (*vera ratio*) of law or the civil order refer to the conditions in which these institutions foster the concurrent development of individuals' mental and physical vitality.<sup>28</sup> In this connection, it is worth recalling the important passage from the TTP regarding the "purpose" of the free republic, which is

to free every man from fear so that he may live in security as far as possible, that is, so that he may best preserve his own natural right to exist and to act, without harm to himself and to others. It is not, I repeat, the purpose of the state to transform men from rational beings into beasts or puppets (*automata*), but rather to enable them to develop their mental and physical faculties in safety, to use their reason without restraint and to refrain from the strife and vicious mutual abuse that are prompted by hatred, anger or deceit. Thus the purpose of the state is, in reality, freedom (TTP 20.567; my emphasis).

The references to beasts and automata call to mind, respectively, Spinoza's description of the Turks' state-imposed barbarism and the Mosaic system of spontaneous or automatic obedience. In each case, law functions with, and the populace is subjected to, a pre-determined finality. More specifically, each of these systems of authority seeks to capture in advance (and, thereby prejudge or "prejudice") individual powers of judgment so as to steer them in support of state supremacy.<sup>29</sup> Again, this helps to account for why Spinoza speaks of theological approaches to law as reversing cause and effect: they place constituents' powers of body and mind in service of state security rather having the security of civil order serve as a condition for enlarging the capacities of these constituents.

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<sup>27</sup> One should, of course, bear in mind Spinoza's anti-finalist definition of *finis*: "By the *end* for the sake of which we do something, I mean appetite" (EIVdef7).

<sup>28</sup> For law, see TTP 4.427; for the civil order, TP V.2; and for the republic, TTP 20.567.

<sup>29</sup> In the TTP's preface, to describe this strategy of domination Spinoza uses the locution '*praejudicii occupare*,' as in "to occupy" or "to seize with prejudice."

To be sure, a system of law cannot function effectively, cannot really *rule*, without employing various coercive apparatuses. But for Spinoza, this matter, which concerns the conditions for state reproduction, is ultimately subordinate to a question about the proper place of law in a project of citizen freedom. From this latter perspective, it is clear that law is not *essentially* coercive. What it *is*, properly speaking, is a rule or set of rules that condition rather than command action, that relate rather than restrain (TTP 4.429). Law, here, is a norm of empowerment or “rule of development.”<sup>30</sup>

From this perspective, also, Spinoza furnishes a different image of the multitude in, or as, a common body. Here, the basis for commonality cannot be made substantial; put differently, the “common good” is not objectifiable or totalizable (as is an identity, an institution, a God). It consists, rather, in the exercise and development of the power each citizen has of being *sui juris*, an equal source of right (TP IV.5). As such, the relevant metaphor for this commonality is language rather than property, because such a capacity—to seek one’s own empowerment through understanding and combining one’s powers in concert with others—“is common to all,” and is something that “all can equally enjoy” without ever mastering or possessing (EIV36, EIV18s). The strongest republics (*maxime sui juris*) thus condition and are able to sustain the independent judgments of their constituents and the public communication of what is good (TP III.7, II.21).

To see this, it helps turn to Proposition 37, *Ethics* IV: “The good which every man who pursues virtue aims at for himself he will also desire for the rest of mankind, and all the more as he acquires a greater knowledge of God.”<sup>31</sup> In the first scholium to this proposition, Spinoza outlines central features of what he takes to be an ethic of virtue or reason, employing traditional terms such as Religion (*religio*), Piety (*pietas*), and Honor (*honestas*). “Religion” is “whatever we desire and do, whereof we are the cause insofar as we have the idea of God, that is, insofar as we know God”; the desire to do good while living under the guidance of reason is “piety”; and, the desire of men so guided to establish friendship with others is “honor.” Continuing, Spinoza explains that the terms “honorable” or “base” refer to these individuals’ assessment of all that either enhances or threatens this friendship. The subsequent two sentences stand out: “*Besides these things*, I have demonstrated what are the foundations of the state (*Praeter haec, civitatis etiam quaenam sit fundamenta ostendi*). Again, the difference between true virtue and weakness can readily be apprehended from what has been said above; namely, true virtue is nothing other than to live by the guidance of reason, and so weakness consists solely in this, that a man suffers himself to be led by things external to himself...(EIV37s1; trans. modified, my emphasis).<sup>32</sup>

The significance of this textual fragment is its allusion to the distinction between the type of authority generated through the force of law (the official prerogative of the sovereign), and a *sui generis* authority that follows from the “true principle and necessity” of law, which

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<sup>30</sup> Gilles Deleuze, *Expressionism in Philosophy: Spinoza*, trans. Martin Joughin (New York: Zone Books, 1992), 268; Deleuze, *Spinoza: Practical Philosophy*, 106.

<sup>31</sup> In a longer version of this paper I also take up Spinoza’s recasting of divine law (in TTP 4) as an ethical knowledge and love of God/Nature, an ethic that is intrinsically political in its means and ends, as he notes (TTP 4.428-29).

<sup>32</sup> See Pierre-François Moreau, “La place de la politique dans l’Éthique,” in *Spinoza: État et religion*, 59-60.

comprehends the intrinsic goodness of actions (TTP 4.427-30).<sup>33</sup> Regarding his remarks on true virtue and weakness, Spinoza explains that he sought to establish “these proofs” in EIV18, which clearly does not say that affections of reason (*pietas, honestas, religio*) are *themselves* the foundation of the state, i.e., ruling principles. It always remains the case, for Spinoza, that the state’s system of rule rests on a passional basis of hope and fear (TP II.10, TTP 16.528, EIV37s2, EIII39, EIV7). Strictly speaking, then, what the “proofs” of EIV18 show to be foundational for the state is the same tendency or desire—“the basis of virtue...the very conatus to preserve one’s own being” and to seek one’s advantage (*utile*)—that all individuals enact, whether they are predominantly “guided by reason” or “subject to passions.”

The tension between the positive instantiation of law (an external norm and the creation of an *imperium*) and its “true principle” (an immanent norm of agents’ empowerment) traverses Spinoza’s thought. It is a productive tension that, moreover, distinguishes his politics from the positivism of Hobbes, whose sovereign determines juridical (just/unjust) and ethical-political norms (good/bad) in one stroke. For his part, Spinoza maintains the tension by positing citizens’ reasonable—that is, *able* to be publicly reasoned—judgment as the “common good” and measure of the civil order itself. The flourishing of citizens’ *sui juris* capacities and the extent to which the state can suffer critique, are thus the index of the vitality or corruption of political life as such (TTP 20.568).

## V. Conclusion

If, on the one hand, Spinoza denaturalizes the traditional idea of the sovereignty of law, he contends, on the other hand, that law serves a “natural” function as a norm of empowerment. It does so insofar as it remains self-sufficient and because it is without finalist significance; as such, it involves no reference to compelling reasons, grounds, or incentives. Spinoza often describes this notion of law without end in terms of Nature’s immanent power: “the law of Nature forbids nothing at all except that which is not within anyone’s power to do” (TP II.18; cf. TP II.5, II.8, TTP 15.528). Correspondingly, within this immanent frame, the set of laws (*instituta jura*) that coordinates the singular powers of citizens into a “union of minds” could in no way be conceived unless the chief aim of the commonwealth is identical with that which sound reason teaches us is for the good of all men.” This “aim,” however, is not a morally substantive one; it does not impose upon politics (and hence, a citizenry) a predetermined end. On the contrary, the aim is precisely the autonomous (*sui juris*) development of the power to judge what is good (*utile*) (TP III.6, EIV24) (TP III.7). Nothing guarantees *a priori* that these aims converge. But through exercises of public political judgment, an active citizenry serves to guard law’s immanent normativity by contesting the inequality and domination that issues from positive law when it becomes instrumental to interests, identities, truths, or anything outside of law itself.

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<sup>33</sup> See TTP 4.426, where Spinoza explains that the definition of something is that “which necessarily follows from the very nature of a thing.” Cf. EIIdef8: “Eternity” refers to “existence itself insofar as it is conceived as necessarily following solely from the definition of a thing” (translation modified).