



**Anarchism/Minarchism**  
**Is a Government Part of a Free Country?**

*Edited by*  
**Roderick T. Long**  
*and*  
**Tibor R. Machan**

ASHGATE e-BOOK

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## ANARCHISM/MINARCHISM

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Is a Government Part of a Free Country?

*Edited by*

RODERICK T. LONG  
*Auburn University, USA*

TIBOR R. MACHAN  
*Chapman University, USA*

ASHGATE

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# Preface

Roderick T. Long and Tibor R. Machan

Libertarians seek a society in which people are free to do as they please with their own lives and peacefully acquired property, so long as they do not interfere with the right of others to do likewise with theirs. In such a society, much that governments currently do—all the myriad forms of forcible interference with their citizens' lives and property—would be abolished. But what would or should remain?

One libertarian tradition, drawing inspiration from classical liberal thinkers like John Locke, Adam Smith, Frédéric Bastiat, and the American Founders—and represented in the past century by, among others, Ludwig von Mises, Isabel Paterson, Ayn Rand, and Robert Nozick—calls for a constitutional government of strictly limited powers, which would be confined to the protection of everyone's negative (libertarian) rights. This position has come to be known as *minarchism*, the advocacy of minimal government. (Although some proponents and opponents of this position describe the government as “the state,” arguably this latter term carries some baggage no libertarians wish to defend, given its use by such thinkers as Hegel and Marx who meant by it something like an organic society.)

Another libertarian tradition—inaugurated in 1849 by the Belgian economist Gustave de Molinari, further developed in the 1880s by the American journalist Benjamin Tucker and the circle of writers associated with his periodical *Liberty*, and represented more recently by Murray Rothbard, Morris and Linda Tannehill, David Friedman (son of economist Milton Friedman), Bruce Benson, Randy Barnett, and Hans-Hermann Hoppe, among others—proposes entirely abolishing government, in the Weberian sense of an institution holding a legal monopoly over a given territory, and replacing it with multiple providers of protection services *competing* on a free market. This position is generally known as *market anarchism* or *anarcho-capitalism*, to distinguish it from those forms of anarchism that oppose private property and the market. (“Market anarchism” is arguably a less controversial designation than “anarcho-capitalism,” since libertarians disagree amongst themselves as to whether the term “capitalism” should be used to mean the unregulated free market that libertarians favor, or the pro-corporate regulatory regime that they oppose.) Outside of libertarian circles, the market anarchist position is best known via Robert Nozick's critique of it in his 1974 book *Anarchy, State, and Utopia*; ironically, academics unfamiliar with the libertarian tradition often assume (despite Nozick's footnotes) that the idea of competing protection agencies was Nozick's invention.

The purpose of the present volume is to examine the respective merits of minarchism and market anarchism from the perspective of several contemporary libertarian philosophers. The volume has been divided into minarchist and anarchist sections for the reader's convenience, although the nuances of particular contributors' arguments are such that some papers do not fit neatly into one category rather than another.



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## Notes on Contributors

**John Hasnas** is an associate professor at Georgetown University's McDonough School of Business, where he teaches courses in ethics and law. He is a Senior Research Fellow at the Cato Institute and an associated member of the Kennedy Institute of Ethics. Professor Hasnas has held previous appointments as an Associate Professor of Law at George Mason University School of Law, Visiting Associate Professor of Law at the Washington College of Law at American University, and Law and Humanities Fellow at Temple University School of Law. He has also been a visiting scholar at the Kennedy Institute of Ethics in Washington, DC and the Social Philosophy and Policy Center in Bowling Green, Ohio. He received his B.A. in Philosophy from Lafayette College, his J.D. and Ph.D. in Legal Philosophy from Duke University, and his LL.M. in Legal Education from Temple Law School. Between 1997 and 1999, Professor Hasnas served as assistant general counsel to Koch Industries, Inc. in Wichita, Kansas. His scholarship concerns ethics and white collar crime, jurisprudence, and legal history and his book *Trapped: When Acting Ethically is Against the Law* is currently available from the Cato Institute.

**Lester H. Hunt** is Professor of Philosophy at the University of Wisconsin, Madison. He has taught at Carnegie-Mellon University, University of Pittsburgh, and The Johns Hopkins University. He has written extensively on ethics, aesthetics, political philosophy, and the philosophy of law, and is the author of *Nietzsche and the Origins of Virtue* (1990) and *Character and Culture* (1998). He is currently working on a book on anarchy and justification of the state.

**Charles W. Johnson** lives and works in Las Vegas, Nevada. He is an alumnus of Auburn University, a Research Fellow for the Molinari Institute, and a member of the Industrial Workers of the World IU 640. He writes and maintains the Rad Geek People's Daily at <<http://radgeek.com/>>, and can be reached through his personal website at <<http://charleswjohnson.name/>>.

**John Roger Lee** (B.A., M.A. SUNY, Albany) (Ph.D. University of Southern California) is a retired professor of philosophy who taught at institutions in the State University of New York, the California State University, and the University of California systems. He lives in Los Angeles, California where he writes on philosophy and on political theory.

**Roderick T. Long**, B.A. (Harvard), Ph.D. (Cornell), is Associate Professor of Philosophy at Auburn University; President of the Molinari Institute and Molinari Society; editor of the *Journal of Libertarian Studies*; co-editor of the *Journal of Ayn Rand Studies* and *The Industrial Radical*; Senior Scholar of the Ludwig von Mises Institute; and author of *Reason and Value: Aristotle versus Rand* (Objectivist

Center, 2000) and *Wittgenstein, Austrian Economics, and the Logic of Action: Praxeological Investigations* (Routledge, forthcoming 2008). Long specializes in Greek philosophy; philosophy of agency; philosophy of social science; and moral and political philosophy. He blogs at Austro-Athenian Empire <<http://praxeology.net/blog>>, part of the Blogosphere of the Libertarian Left <<http://libertarianleft.bravehost.com>>.

**Tibor R. Machan** (R. C. Hoiles Professor of Business Ethics & Free Enterprise, Chapman University, CA) writes on ethics, business ethics, political philosophy, epistemology and philosophy of science. He wrote *Individuals and Their Rights* (1989) and *Libertarianism Defended* (2006), among other works. His most recent book is *The Right Road to Radical Freedom* (2007).

**Jan Narveson**, B.A. (Chicago), Ph.D. (Harvard), is Professor Emeritus of Philosophy at the University of Waterloo in Ontario, Canada. He is the author of more than two hundred papers in philosophical periodicals and anthologies, mainly on ethical theory and practice, and of five published books: *Morality and Utility* (1967), *The Libertarian Idea* (1989); *Moral Matters* (1993; 2nd ed. 1999), and *Respecting Persons in Theory and Practice* (2002); and, with Marilyn Friedman, *Political Correctness* (1995). He is also the editor of *Moral Issues* (1983); *For and Against the State* (with John T. Sanders, 1996), and *Liberalism: New Essays on Liberal Themes* (with Susan Dimock, 2000) He is or has been on the editorial boards of many philosophical journals; was also elected as a Fellow of the Royal Society of Canada, and is a frequent guest at colloquia and conferences around North America and in the U.K. and Europe. In 2003, he was appointed an Officer of the Order of Canada, which is Canada's next-to-top civilian distinction.

**Adam Reed**, Professor of Information Systems at California State University, Los Angeles, works in the philosophy and history of the cognitive and information sciences, and in both general philosophy and history. He wrote "Object-Oriented Programming and Objectivist Epistemology: Parallels and Implications," in the *Journal of Ayn Rand Studies*, and "From System Development to Information Infrastructure: The Shifting Technical Focus of Corporate IS Organizations," in the *Review of Business Information Systems*.

**Aeon J. Skoble** is Associate Professor of Philosophy and Chair of the Philosophy Department at Bridgewater State College, in Massachusetts. He is the co-editor of the anthology *Political Philosophy: Essential Selections* (Prentice-Hall, 1999) and author of the forthcoming *Deleting the State: An Argument about Government* (Open Court, 2008), as well as many essays on moral and political philosophy in both scholarly and popular journals. In addition, he writes widely on the intersection of philosophy and popular culture, including such subjects as *Seinfeld*, *Forrest Gump*, *The Lord of the Rings*, superheroes, film noir, Hitchcock, Scorsese, science fiction, and baseball, and he co-edited and contributed to *Woody Allen and Philosophy* (Open Court, 2004) and the best-selling *The Simpsons and Philosophy* (Open Court, 2000).

**William R Thomas** is Director of Programs at The Atlas Society. He has a Master's Degree in Economics from the University of Michigan, where he taught the economic history of the United States and China. He is a graduate of Oberlin College. Thomas is the editor of *The Literary Art of Ayn Rand* (2005), author of "Ayn Rand: Radical for Capitalism", and presenter of the recorded course "The Essence of Objectivism." He has published essays on topics in politics, ethics, and epistemology.

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PART 1  
Minarchism

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## Chapter 1

# Why the State Needs a Justification

Lester H. Hunt

### My Thesis

The point I wish to make here is actually fairly simple. As my title suggests, I wish to argue for the idea that the state is an institution that requires a justification. Some readers will no doubt feel that the fact that the state needs a justification is so obvious that arguing for it is a waste of time: it is best to move on forthwith to the real issue, which is what that justification (if there is one) might be. To others, the very idea that there is an issue here might seem baffling: why should government be any more in need of a justification than anything else? I would like to put forth a reason, a rather simple one actually, for thinking that it does need a justification; that it stands more in such need, perhaps, than any human institution of comparable longevity and persistence.

### Hume's Challenge

Before I tell you just what this simple reason is, I would like to briefly set out a classic argument for the conclusion that there is in fact no issue here, that the state stands in no special need of justification. This will I hope motivate those who think that the state *obviously* needs a justification (so that discussing the issue of whether it does or not is a waste of time) to read on. I don't think that this classic argument does have an entirely obvious answer. To those who think that, on the contrary, the state stands in no special need of justification, I will just say, for the present, that there is indeed an answer to this argument and that the problem of justifying the state is a serious one.

The argument I have in mind shows up at the end of David Hume's essay, "Of the Original Contract," an extended criticism of John Locke's justification of the state. Locke of course is a social contract theorist, which in his case means that the state is made a legitimate institution (whenever it is such) by virtue of the fact that its subjects have in one way or another entered into an agreement to that effect: the only thing that can render a state legitimate is a certain sort of agreement among its subjects. After a lengthy discussion of historical examples meant to cast doubt on the idea that the governments that actually exist can have such a foundation, he turns his attention briefly to the idea that such an agreement, even if it exists, *could* justify the state:



If the reason be asked of that obedience, which we are bound to pay to government, I readily answer, *because society could not otherwise subsist*: And this answer is clear and intelligible to all mankind. Your answer is, *because we should keep our word*. But besides, that no body, till trained in a philosophical system, can either comprehend or relish this answer: Besides this, I say, you find yourself embarrassed, when it is asked, *why we are bound to keep our word?* Nor can you give any answer, but what would, immediately, without any circuit, have accounted for our obligation to allegiance.<sup>1</sup>

Obviously, Hume is thinking that the answer to the second question, “Why should we keep our word?” is “because society could not otherwise subsist.” Why not give that answer in the first place?

There is one feature of this argument that I think is a potential distraction. Hume assumes that what has to be justified, if anything does, in order to make the state a just or legitimate institution, is the idea that we owe it *obedience*. I doubt that this is how Locke frames the problem. In his treatment of the subject, the aspect of the state which seems to get the most attention is what one might call the “monopoly of force” aspect: specifically, the fact that the state backs up its edicts with threats of punishment (including, in his account of the matter, the death penalty) and forbids others from doing the same.

Further, aside from any issues involving the interpretation of Locke’s theory, it seems to me that Hume’s assertion, that society could not subsist without obedience to the state, seems rather doubtful in itself. For one thing, during the greatest part of the history and prehistory of the human species, life subsisted without any state at all. Our ancestors got along for many tens of thousands of years in small hunter-gatherer bands based to some extent on the extended family. During that time, they presumably lived together in relative peace by following customary rules of behavior. It is these features of a group of people – that they live together by following shared rules – that I would think make them a society. Society, understood in this way, antedates the state by a long, *very* long stretch of time. Further, one can doubt that, even in our times, society depends on *obedience* to the state. Over the years, I have asked undergraduate students whether they think that they have an obligation to obey the law, apart from any fear they might have of being caught and punished. Invariably, an overwhelming majority says that they do not, and a significant number even seem to find the question puzzling. For the most part, people seem to do what the law requires because of either a) the fear of being punished, b) the intrinsic wrongness of the act itself (for instance, stealing your neighbor’s wallet) or c) what might be called the adverse natural consequences of the act itself (for instance, driving on the wrong side of the road). There may be certain advantages in a social system in which people obey state-made law just because it is the law – for instance, the system might thereby save on enforcement costs<sup>2</sup> – but it is *extremely* doubtful that society would collapse without such a feature.

<sup>1</sup> David Hume, “Of the Original Contract,” in *Essays Moral Political and Literary* (Indianapolis, IN: Liberty Classics, 1987), p. 481.

<sup>2</sup> Of course, there could be a down side to it as well. People with an “obedient” frame of mind might be less exploratory and experimental in their view of life, and thus less inventive

However, Hume's focus on obedience is, as I have suggested, a distraction from the main point. One could probably reformulate his argument in terms of some other feature of the state in a way that would preserve its essentials. It would be *prima facie* plausible to say, for instance, that society, or at least a certain *kind* of society, the kind that we want to live in, could not subsist without (some) standing organisation that both deliberately manufactures rules and backs them with coercion (which is of course not the same thing as rules that one is somehow obligated to follow even apart from the coercion).

A potentially more serious problem with Hume's argument (a more serious problem than his apparent misinterpretation of Locke) lies in the fact that he rests his own argument on a debatable assumption. He is saying that if you are to complete Locke's defense of the state correctly, that is, in *Hume's* way, the most distinctively Lockean feature of this defense becomes a pointless extra step, one that actually weakens the case Locke seeks to make. Once we explain why we should keep our promises, we have an explanation that, it should be immediately obvious, also applies directly to the state. The problem with this is that Hume's way of completing the explanation is not the only way. He is assuming some form of utilitarianism, that the ultimate standard of right and wrong is social benefit. This is clearly not the way that Locke thinks about such matters. In his political philosophy he is a natural law theorist, not a utilitarian.

Nonetheless, Hume is making a point that goes well beyond his quasi-utilitarian assumptions, one that can be appreciated independently of whether we agree with him about the fundamentality of social benefit. Here is one way to look at it (there are probably others just as good, but this one brings out the aspect of the situation that I want to emphasise). Locke is concerned with the grounding of what we might call "the political realm."<sup>3</sup> A "realm" in this sense, is an array of *reasons* that people routinely give for either doing or believing things, in which these reasons are (sometimes very loosely) governed by a smaller array of fundamental principles. In this case, the reasons are of course *political* reasons. *Because the king said so* or *because he is the king* are political reasons for doing what the king said to do, or for believing that what the king did was right. Locke wanted to give an account of the circumstances in which these alleged reasons can become genuine reasons, can show that something is right or true. He thought that by doing so we can discover what the fundamental principles of the political realm are. The strategy by which he sought to achieve this end was to ground the realm of the political in the realm of the moral. *Because you promised* is a moral reason and not a political one. His theory is that the alleged reasons we encounter in the political realm become genuine reasons when

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and productive. Admittedly, I am speculating here, but the point is that Hume is speculating as well, and very dubiously at that.

3 This is essentially the way Robert Nozick describes his own project in his *Anarchy, State, and Utopia* (New York: Basic Books, 1974) pp. 6-9. By importing the notion of reasons and principles into the definition of a "realm" I am giving it some content that it does not have in Nozick's discussion. But in view of the way he goes on to use these two notions in his later book, *The Nature of Rationality* (Princeton, NJ: Princeton University Press, 1993), Ch. 1, there is a chance he would have taken this in the spirit of a friendly amendment.

we can give good enough moral reasons why they should be accepted. By giving an account of what the relevant moral reasons are, he thought he could establish that the basic principles of the political realm consist of a small number of specific goals (the state is to pursue the general good and protect individual rights) and a tight set of constraints on state action: it must pursue these goals without violating rights.

The sort of theory that Locke is practicing is a very powerful one, in that (supposing we have a right to use it) it yields an abundance of results: namely, ideas, analyses, and principles about the political realm. Hume's point is to raise a doubt about whether we *do* have a right to use this method, or one that is *anything like it*. At bottom, the logical character of Locke's theory is that of an *explanation*: it purports to explain why the would-be reasons in the political realm are (sometimes) genuine reasons. Now, we only have a right to accept any particular explanation as long as we have no reason to think that there is a better explanation, one that explains the same phenomena but explains them with a more plausible set of assumptions, or a greater appearance of logical rigor, or explains these phenomena and others in addition to them, and so forth. Regardless of what one thinks of appeals to social utility, the deeper point of Hume's argument remains: that there might well be a better explanation than Locke's, better even than the general *type* of explanation that Locke gives. Hume's triumphantly italicised declaration, *because society could not otherwise subsist*, is obviously meant to bring home to us that there is indeed an explanation that is far more plausible than Locke's because it involves far fewer fanciful assumptions and appeals only to commonly available facts, and at the same time is clearly relevant to the issue at hand, which is: why is it a good idea to have such a thing as the political realm? This bare fact, that Hume *can* give the sort of argument that he does give, calls into question the need to ground the political in the moral, because it points up the possibility (which is so obvious once we notice it) that there can be other ways of explaining the political realm, aside from explaining it in terms of the moral realm. Why can't both these realms, the political and the moral, be explained in terms of the socially advantageous, or indeed in some other sort of reason? In fact, once we come to entertain such possibilities, why not go beyond Hume and consider the possibility that the realm of the political and that of the moral might both be completely autonomous, with their own sort of peculiar logic?

### **The Problem of the Double Standard**

Hume's argument raises at least three questions regarding Locke's strategy. First, why should we seek to explain the political in terms of some other realm at all? Second, why should we explain the political in terms of the moral? Third, why must we explain it in terms of the particular moral reason that Locke chooses as the foundation of his theory ("because you promised"). I will only concern myself here with the first two issues. Although my own view is that on these two issues Locke was fundamentally right and Hume was fundamentally wrong, I think we can only see why Locke was right by taking at least one step beyond the ideas that his theory contains. Admittedly, Hume is right about one thing: Locke was rather too quick in supposing, without further argument, that the political needs to be explained in terms

of some other realm. However, I think we can see the need for such an explanation if we add something to our notion of what the explanandum phenomenon, the thing to be explained, is.

The additional element I have in mind is something that might be called “the double standard.” It is something that is actually quite familiar to us all. Consider what officers of the state are doing when they collect taxes. They are not passing a hat and asking for money. They are *telling* you to pay, and if you fail to give them the amount they demand, they have various ways, all more or less painful, to make you sorry you did not cooperate. Of course, private citizens sometimes act the same way, but when they do, we call them thieves and insist that they be stopped and punished. When ordinary individuals do it, it is called stealing, but when representatives of the state do what, in a perfectly straightforward way, seems to be the very same thing, it is called taxation. The same sort of thing can be said about what the state is doing when it practices military conscription. Here they are forcing people, in some cases very much against their will, to do work that is not merely unpleasant but may very well be fatal to them. If private individuals do such things, these practices are called abduction, kidnapping or perhaps something worse, and we stop them if we can. When done by representatives of the state, they are treated and spoken of completely differently, even by people who think such policies are unnecessary or ill-advised.

Finally, consider what officers of the state are doing when they try to keep individuals outside or, as it may happen, inside the nation whose state is represented by those particular officers. They are coercively preventing people from crossing an imaginary line on the ground, somewhat in the way you or I might prevent an unwanted guest from entering our homes. But of course the imaginary line on the ground in this case does not represent the boundaries of the officer’s property. Further, even if the line does happen to coincide with the boundary line of some individual’s property, that individual may have no interest in preventing the coerced person from crossing it. The officer’s right to do this, if it exists, is not based on the sorts of consideration that could give a private individual a right to do something similar. In this case, what the officer is doing is something that private individuals, including criminals, don’t do at all, but the same point can be made here as in the case of taxation and conscription: we do not treat or speak of the officers in anything like the way we would treat private individuals who did the very same thing.

Rather obviously, this process can be repeated in connection with a vast array of government activities. The questions thereby raised are accordingly also multifarious. Why isn’t taxation theft? Why isn’t conscription abduction? Such questions can be multiplied at great length. The problem I am pointing to here is accordingly rather large and amorphous, but there is one conspicuous feature that unites the examples I have given so far. In each case, we have individuals pursuing their goals by using force against others. Two simple facts are sufficient to make these questions real issues. First, according to the moral ideas we apply to our own conduct and that of our fellow human beings, we are not generally permitted to pursue our goals by the use of force. Ordinarily, it makes no difference how morally lofty my purpose is. I may know that you are about to spend the contents of your wallet by going to a movie, whereas I would donate the same amount of money, if I had it, to a highly effective charitable organisation, which might actually use it to save a human life. Still, taking

the money would be stealing, and for that reason I do not do it. Second, the officers in my examples are individual human beings like you and me. There is no obviously good reason why the standard I apply to myself and my neighbors should not also apply to them. And yet we do seem to apply some completely different standard to them. What, if anything, might justify this? This is what I call this the problem of the double standard.

The problem, to generalise just a bit, is that by the light of moral ideas that we tend to find highly intuitively plausible, it is possible to see judgments we ordinarily make about activities of the state as counter-intuitive. So far, the problem is in a way like the problem of skepticism in epistemology: there is a simple, intuitively appealing argument in Descartes' *Meditations* that makes it possible for me to entertain the possibility that I am always dreaming. However, our current problem is much more serious than the problem raised by the dream argument. We know in advance what the outcome of the best analyses of the dream argument will be: you are not dreaming. It is as simple as that. But we cannot say that all the state activities I have described above are perfectly in order as they are. It is not that simple at all. This difference between these two problems is linked to another difference between them. The problem raised by the dream argument is of purely academic interest: there is no pressing *practical* problem of distinguishing dreaming from waking. On the other hand, there is a practical problem, as pressing as it can be, of deciding which of these state actions, or which forms and permutations of them, are right.

Even those readers who most stubbornly resist the idea that there is something morally problematic about the state are aware that the practices I have described are all, as we might say, morally explosive: when they go wrong they can go very wrong indeed. Americans who support tougher measures to keep Mexicans on one side of the Gadsden Purchase line were offended when the East German government coerced East Germans to stay on one side of the Berlin wall. Defendants at the Nuremberg trials were prosecuted for the crime of using conscript labor – by states that were at that very moment using conscripted military personnel. The idea that these functions of the state are simply legitimate as they are is not likely to strike anyone, on reflection, as very plausible. It would seem to commit one immediately to a particularly ugly sort of moral nihilism.

In that case, where is the solution to my problem likely to lie? Clearly, the most obvious way to avoid underwriting the actions of the state with an amoral blank check would be to find the elements of morality that we find intuitively gripping, and assemble an account that can explain not only why the officers of the state are acting within their rights in doing things that the rest of us may not do, but in addition why they are not acting within their rights when they are not. This answers the second of the three questions I said were raised by Hume's argument, namely: why must we explain the political in terms of the moral? The answer is that morality is more intuitively gripping than politics is. They do not stand on an equal footing, in the manner suggested by Hume's argument. Further, the political is by moral standards somewhat *counter-intuitive*. Part of what it is to understand the political realm, to produce an adequate theory of it (supposing that this can be done) is to resolve this counter-intuitiveness. And the most obvious way to do this is to explain the political in terms of the moral. Further, the search for such an explanation is not a merely

academic exercise, aiming at understanding as an end in itself, but a practical one which aims at drawing a line between right and wrong.

The idea that the political needs to be explained in terms of the non-political is one of the most distinctive features of the social contract tradition. More exactly, it is the idea that lies behind one feature of this tradition: that it attempts to derive (in some sense of this word) the state from the state of nature. What, after all, *is* the state of nature? It does not, or at least does not necessarily, represent the “natural” aspect of human life in the sense of being purely animal or pre-social. It is arguable that in Hobbes and Rousseau it does represent the merely animal, or something close to it, but Locke makes it abundantly plain that people in his state of nature live together in (more or less) peace because they regulate their behavior (though with imperfect success) by basic rules that enable them to do so. What the state of nature always represents is of course the *pre-political*. What I have tried to do here is to exhibit the logic and plausibility of state of nature theory, interpreted as the project of explaining the political by grounding it in another realm.

### **The Asymmetry of the Moral and the Political**

Having come this far, I am of course aware many will have failed to follow me for a variety of reasons: either they do not have the intuitions on which I have relied, or they will resist having them or (most interestingly) will have them but refuse to trust them. I will now turn my attention to this last source of resistance.

Of course, someone might say, there is a sense in which our intuitive, pre-theoretical use of our moral ideas clashes with our intuitive, pre-theoretical application of our political ideas. When I think about myself, my next-door neighbor, or my uncle Harry, I think that, whenever any one of us promotes his or her goals by using coercion against someone who is not bothering anybody, we are doing wrong. When I think about a tax collector or an immigration official, I think pre-reflectively that they are right to go after the tax-evader and the Mexican immigrant, even though the tax evader and the Mexican are not bothering anybody. I think of the immigration official as if they were on a different plane from me, from my neighbor, from my uncle Harry. But why isn't each way of thinking perfectly okay, on its own plane?

In a way, I have already responded to this line of thinking. If we *simply* accept our pre-theoretical immersion in the political at face value, without tempering it with skepticism, it seems to put the individuals who carry out state policy on a different plane from everyone else. And this seems to lead directly to the blank check problem, which I have already discussed. If the reason they can do what they do is that they are on a different plane from the rest of us, doesn't that mean that what they do is alright just because they (on this higher plane) are doing it? And wouldn't this mean they may do what they do, *whatever it is*? But there is a positive point to this line of thinking that is worth considering: Is there any *reason*, apart from the blank check problem, to be more skeptical about our political intuitions than about our moral intuitions?

I can give one such reason. It has to do with what I think is the most plausible sort of causal explanation of our intuitions, an explanatory story of their origins.

More exactly, it has to do with certain features that such an explanation would have to have. Our ideas of right and wrong, whether political or moral, no doubt evolved over a long period of time, much of which has left no record of itself, so any account of their origins is necessarily speculative. I don't wish to speculate about them here, but merely to point out that the nature of these ideas implies certain constraints on the possible ways in which they might have come about.

Morality and the state have certain features in common, which enable us to compare them in illuminating ways. Both are features of the social world which serve to regulate individual behavior, and both do so, to a very significant extent, by means of rules of conduct. But there are two enormous and obvious differences between rules by means of which they accomplish this regulatory function, between moral rules and state-made rules. First, moral rules are ones that people think they have reason to follow quite aside from the possibility of being caught and punished for not following them. This is in fact a necessary feature of a morality. It is one implication of any reasonable definition of a morality. Among state-made rules, it is not. Some people believe they have an obligation to follow state-made rules, others do not, and yet they are state-made rules just the same. Further, as I have suggested, such rules do not seem to need the support of such a belief in order to function. Whenever they require people to do things that might go against their current desires, state-made rules are backed by deliberate coercion. The second difference lies in the fact that, in the case of moral rules, there is no one who is in the position of making it true, simply by declaration, that a given idea is a rule in the system.<sup>4</sup> Moral rules that comprise the moral code of a given group of people – and here it should be remembered that I am talking about what might be called “positive morality,” the source of our pre-theoretical moral impressions – are ones that exist simply because the members of the group (perhaps to different degrees) accept them as binding. Wherever these rules come from, whatever their content might be, they must be ones that everyone can accept as right and binding on them without their being coerced into accepting them. Though the content of these rules can obviously vary widely from one group of people to the next, there are limits to what sorts of rules could exist in this particular way. In fact, if we suppose that people are always influenced by their own self-interest in accepting rules, then it would follow that the rules of a morality are (to the extent that they are so influenced) beneficial to all members of the group.<sup>5</sup> Indeed, if we consider the sorts of moral rules that seem to exist in all cultures, it seems obvious that they are beneficial to all. All cultures seem to have

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4 In those rare cases in which we seem to have an exception to this – perhaps the Pope has something like this sort of authority over Roman Catholic morality – that very fact indicates that the norm-making authority is state-like and that the resulting system of rules is as much a juridical one as a moral one.

5 Admittedly, I am leaving the idea of benefit obscure, other than that the standard of benefit is the interests of the person benefited as perceived by that person. In particular, I am leaving open the question of “beneficial compared to what?” Are the rules beneficial to each in that they are better than no rules at all? Or does it mean that each particular rule is better than any possible alternative particular rule? Clearly the former would be too low a standard of what constitutes a benefit, while the latter would be an arbitrarily high one. I don't need to settle these questions here, since my point is to contrast these rules with state-made ones.

rules that obligate one to keep one's promises, that protect property (of some sort), that protect the family (in one or more of the many forms the family can take), and it is obviously in everyone's interests to have rules that perform these functions.

In order to explain moral rules, and through them the moral intuitions that derive from them, we must create an explanation that shows the rules, and resulting intuitions, to be mutually acceptable to the individuals to whom they apply. If in addition we assume that this process is driven (to some extent) by self-interest, our explanation will predict that the resulting rules and intuitions will be (to that extent) mutually beneficial. As the reader has no doubt noticed, the situation with state-made rules is entirely different. Here self-interest has a completely different sort of significance, leading not to mutual benefit but to exploitation. Because they are coercive and need not be unanimous, these rules can be forced on people contrary to their perceived interests. This is something that others can indeed have an interest in doing. It is possible to have rules that transfer benefit *from* one person or subgroup *to* another, where such rules are in place *because* they do have that feature. We might call such rules "norms of exploitation."<sup>6</sup> Further, if we suppose that self-interest drives the formation of these rules to a significant extent, and in addition that peoples' interests are not (in some relevant sense) perfectly harmonious, then we can predict that systems of state-made rules *will* include norms of exploitation, unless by some clever device people prevent it from doing so.

The prospect becomes yet more depressing if we make one more assumption, a very plausible one I should think. Suppose that the state has a mystique of authority, such that people have to some degree a tendency to believe that its rules, whatever they might be, are right.<sup>7</sup> This would mean that the state has a significant tendency to corrupt the human intellect and conscience. People who are being exploited, if they possess this tendency, are apt to think that it is right that they be treated this way. Worse yet, those who are doing the exploiting, to the extent that they have the same tendency, will do so with a clear conscience: they too will believe that their victims deserve no better treatment.

Though I have made a number of unjustified assumptions in what I have said so far (that people are to some extent influenced by self-interest in creating or accepting rules of conduct, that they tend to accept state-made rules as right, and so forth), the point is of course that these are not implausible assumptions. And if they are true, then the ideas that we use in the political realm *deserve* our irony and skepticism in a way that moral ideas do not.

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6 I take this felicitous expression from Nozick, *Invariances: The Structure of the Objective World* (Cambridge, MA: Harvard University Press, 2001), pp. 248-49.

7 We need not assume that this mystique is something that the state has intrinsically, nor that the rule by itself causes people to believe that it is right. Other causal mechanisms might be involved. We might say, for instance, that there is a class of "public intellectuals" who advocate various possible state actions by various arguments and that, when there is a new rule or policy that is because these intellectuals have convinced enough people. Because of the state's coercive nature, because it is perfectly adapted to serve as an instrument of exploitation, there will be a tremendous temptation to be influenced by discreditable motives in being swayed by the arguments of these intellectuals. The arguments would in that case serve only as "ideology," in the Marxist sense: they would be rationalisations.



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