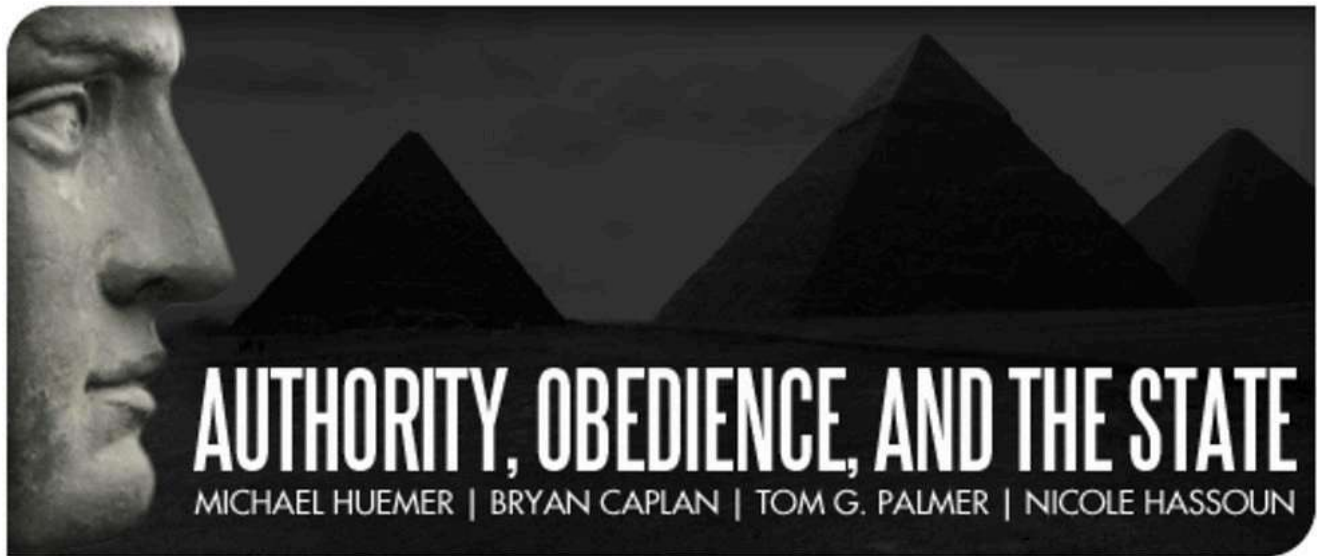




Authority is Not the (Only) Problem: People Have Positive as Well as Negative Rights

[Nicole Hassoun](#) • March 11, 2013 •

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Poverty, Property, and Rights

When I met Samantha, she was making her living picking up waste to sell to recyclers on the Smokey Mountain garbage dump in the Philippines. Like about half of the world's population, she lives on less than the equivalent of what two dollars a day buys in the United States. She is very likely to suffer and die young from an easily preventable poverty-related illness.

Samantha has a right to life as well as a right to liberty and property. Some of her rights are negative and others are positive—that is they generate duties on others to help. Perhaps in helping fulfill these rights, we must stop short of violating other rights. Perhaps no one can steal to help Samantha. Perhaps no one can force anyone else to help her. But this is not obvious. If a large corporation has a monopoly on the sale of a life-saving drug that Samantha needs, we may be justified in forcing the corporation to offer the drug to Samantha at a price she can afford.

Property rights like other rights are limited. Even on the most libertarian justification for property rights, advanced by John Locke, one can only have a right to acquire something if that person leaves enough and as good for others. As Robert Nozick develops the theory, one cannot keep anything that he or she has not created that others need to survive. On a better (Rousseauian) conception of property rights, if the current distribution of property does not allow all to meet their basic needs, there is something wrong with it. Obviously, many people do not have enough to meet their needs in a world where billions are in desperate poverty and millions die every year from easily preventable poverty-related illnesses. The current distribution of property rights is not justified.

“Is” Does Not Entail “Should”: We May Have to Make States (More) Legitimate

States have not secured most people’s actual consent, and it would not be reasonable to consent to be governed by some states, but this does not entail that we should abolish states. Even if states can only do what private agents can do, perhaps they should do what they can to secure (reasonable) consent. In my book *Globalization and Global Justice* I argue that, to consent, people must at least be able to reason and plan. So people must be able to meet their basic needs for things like adequate food, water, and health care. Legitimate states have to help all of those subject to their rules secure these things.

“Could” Does Not Entail “Would”: In the Real World Anarchy Is Terrible

Maybe there is no way to ensure that everyone who is subject to a state’s rules can (even reasonably) consent to their rules, but we need states anyway. States do not just enforce laws and protect borders. They help us live together well by solving many collective action problems, and they secure other positive and negative rights. Anarchy, in the real world, is usually horrifying. Somalia may be an average low-income country, but it is governed by warlords and, on average, we can do better. Democratic government that respects, protects, and fulfills basic rights may not be great—most people have to abide by at least some rules that they do not endorse—but it is better than that alternative.

Some would do well in anarchical states. Rich warlords often do well, at least for a while. But people like Samantha, who cannot afford to hire decent protective services, often do poorly. It is possible that people would charitably provide Samantha with the things she needs (and not only protection services) in an anarchical society, but I do not think it is likely. Charity has not alleviated global poverty in a world of primarily capitalist states. But neither has charity alleviated poverty in anarchical societies. Even in the U.S., where many people give private charity, states give more aid. Perhaps we should make states better, not eliminate them.

Everything People Claim Is Not Necessarily Theirs

Libertarians and anarchists cannot respond to the foregoing arguments by asserting that taxing some people to protect the welfare of others violates rights—in particular, property rights. This may be so if securing everyone’s consent is impossible, but only if libertarians and anarchists endorse a radically implausible account of almost inviolable property rights. That is not common sense. Other rights are important, too, and rights limit the application of other rights. I do not have a right to life that extends so

far that it allows me to deprive others of their rights to life. I do not have property rights that extend so far that they allow me to withhold essential goods that I do not need from those who will suffer and die without them.

Property rights are complicated bundles of different privileges, claims, powers, and immunities. In different states, and at different points in time, property rights are understood in different ways. Their limits are defined differently. Consider an amusing example. In the colonial era, beavers were understood to be common property—anyone could take them from anyone's land. But as beavers became scarce and their pelts could be traded for money, they privatized half of the beaver: Anyone could still take the meat but they had to leave the pelt on the land where it was found.

Different people benefit more or less under different property-rights regimes, but moral property rights must not undermine other rights. Today no one can dump toxic waste in part of a river that they own even if that would save them a lot of money. Any property rights system that allows this would be impermissible. And insofar as taxes are necessary for protecting individuals' ability to secure what they need to survive, pre-tax income is just an accounting figure.

Freedom within States That Protect Rights (and Do Other Important Things)

If states lack the authority to protect rights, it is not clear why Huemer thinks other agents can have this authority. Moreover, most people hold that states and other actors must abide by different rules. One reason to hold that different rules apply to different agents is that this protects individual freedom. States may have to set the limits of property rights so that individuals are free within these constraints. The thought is that, if the rules are set correctly, other agents will not have to consider all of the downstream effects of each of their business transactions to be sure that they help fulfill and do not violate rights or other moral requirements. Of course, in the real world, the rules are not always set correctly, but that may just mean we should change them.

The preceding reflections do not tell us everything about what legitimate states can do. They do not tell us that states can set property rights in any way that they might like, conscript people to kill others, prevent people from killing themselves with toxic chemicals, or stop people from entering or leaving the territory within which they rule. States may have to do much more than respect, protect, and fulfill basic rights. But they do have to respect, protect, and fulfill them.

Some Further thoughts on Corporations and States

Suggesting that states are like corporations (or other private agents) does not justify anarchy. States are like large corporations and other private agents in some ways and not others. No state, or corporation, has a (global) monopoly on coercive force. Some corporations are bigger than most states, but almost all of corporations are regulated by states, at least to some degree. States are not regulated by corporations, though their fates can be deeply influenced by them.

Nor are monopolies always bad (or good). Monopolies may be an effective way to provide some public goods. Monopoly protection gives pharmaceutical companies an incentive to create new medicines, for instance. But monopoly protection also allows companies to price essential drugs much higher than would otherwise be sustainable—preventing poor people from accessing them. There may be better ways to provide some public goods than via monopoly protection. States working alone, or in concert, might do a much better job of meeting global health needs by supporting public research and development of key drugs. Not only can we restructure the incentives pharmaceutical companies face to get them to do more research and development on the largest global health problems (Fair Trade for Health), we can change the kinds of patents given for new innovations.

With monopoly provision, little research and development is done on the largest health problems because companies cannot sell much to the global poor who suffer from the largest burden of disease. Companies do much better by creating drugs that do not cure, but treat, chronic problems of rich patients who can continue to buy them into perpetuity.

Moreover, the virtues of competition and efficiency are not the only virtues. States already allow competition for the private provision of many of the services they provide—including protective services—but the results are not always good. There are many private security firms, and it is becoming more and more common for states to hire mercenary companies to help fight wars. But private companies, like states, often violate human rights in wartime. In fact, private companies, like states, often violate human rights and other moral requirements even when they do not participate in wars.

It is an open and very difficult empirical question: “Under what conditions are public or private provision of goods or services better, to what extent should any agent have a monopoly on the provision of goods or services, and which legal regulations are good and which are bad?” We need to carefully consider the virtues of different policies in any given instance. To solve the problems corporations cause we may need to better regulate corporate behavior, not eliminate all regulations. But rather than speculate about even these concrete and comparatively limited questions—never mind what kind of political system would be best in general—we may do better to attend to empirical evidence about what actually works.

ALSO FROM THIS ISSUE

Lead Essay

- [The Problem of Authority](#) by [Michael Huemer](#)

Michael Huemer advances two broad theses: First, we should judge government actions using precisely the same standards that we commonly employ in judging individuals' actions; governments and their agents get no special moral status. Second, he suggests that a society without a monopoly government might not be as different different as is sometimes imagined. Those who fear corporate power should question whether government, which bears a striking resemblance to an especially large, ill-behaved, and overbearing corporation, can ever be a vehicle for social justice.

Response Essays

- Plausible Libertarianism: Philosophy, Social Science, and Huemer by Bryan Caplan

Bryan Caplan praises Michael Huemer's work on the problem of political authority because it avoids the extremes of both rights-based and consequentialist reasoning. Each has notoriously foundered on difficult problems in the past, as is well-known to students of political philosophy. Huemer instead resorts to commonly shared moral intuitions, thus establishing a strong foundation for his still quite radical libertarian politics.

- Moral Philosophy, Obligation, and Some Concerns by Tom G. Palmer

Tom G. Palmer suggests two areas where Huemer's argument may need elaboration. First, he suggests that a monopolistic government authority may indeed be necessary at times in order to solve coordination problems. Rules can help coordinate behavior, but they can only do so if nearly everyone knows about them and follows them. Second, Palmer suggests that the intuitionist method may only be of limited use, as people in other times and places will not share the common intuitions of present-day westerners. If we are to make the case for human liberty, we need to make the case to them as well.

- Authority is Not the (Only) Problem: People Have Positive as Well as Negative Rights by Nicole Hassoun

Nicole Hassoun makes the case for positive rights. Without adequate water, food, and health care, questions of consent cannot be reached in the first place. A government that does not help all its citizens to secure these things is not one we could ever reasonably consent to. Somalia suggests that in the real world, anarchy can be horrible. Pre-tax income is not a thing we own as a property right; it is simply an accounting figure. These conclusions, she argues, follow from common sense.

The Conversation

- [Some Opening Replies: Coordination, Intuition, and Positive Rights](#) by [Michael Huemer](#)
- [Response to a Response: Intuitions and Conventions](#) by [Tom G. Palmer](#)
- [The Case of Murder](#) by [Bryan Caplan](#)
- [The Rights of the World's Poor: A Reply to Hassoun](#) by [Bryan Caplan](#)
- [Reply to Caplan: On Negative Rights, Individual Action, and Liberalization](#) by [Nicole Hassoun](#)
- [What's Missing in *The Problem of Political Authority*](#) by [Bryan Caplan](#)
- [Arguments vs. Wisdom in Political Philosophy: Principle vs. Practice](#) by [Nicole Hassoun](#)
- [Some Thoughts on Inequality of Wealth and the Moral Claims We May Make on Each Other](#) by [Tom G. Palmer](#)
- [Positive Rights and Poverty: What They Suggest and Imply](#) by [Bryan Caplan](#)
- [Some Further Unaddressed Points: Authority, Anarchy, and Positive Rights](#) by [Michael Huemer](#)
- [A Reply to Palmer and Caplan](#) by [Nicole Hassoun](#)
- [Making Progress?](#) by [Nicole Hassoun](#)
- [Response to Huemer on Authority and Hassoun on Poverty and Redistribution of Property](#) by [Tom G. Palmer](#)
- [Three Notes on Positive Rights](#) by [Michael Huemer](#)
- [A Few Final Remarks on Huemer and Palmer](#) by [Nicole Hassoun](#)

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