

# Political Authority

## Introduction

- **The Village.** Imagine that you live in a small village with a crime problem. Vandals roam the village, stealing and destroying people's property. No one seems to be doing anything about it. So one day, you and your family decide to put a stop to it. You take your guns and go looking for vandals. Periodically, you catch one, take him back to your house at gunpoint, and lock him in the basement. You provide the prisoners with food so they don't starve, but you plan to keep them locked in the basement for a few years to teach them a lesson. After operating in this way for a few weeks, you decide to make the rounds of the neighborhood, starting with your next door neighbor. As he answers the door, you ask, 'Have you noticed the reduction in crime in the last few weeks?' He nods. 'Well, that is thanks to me.' You explain your anticrime program. Noting the wary look on your neighbor's face, you continue. 'Anyway, I'm here because it's time to collect your contribution to the crime prevention fund. Your bill for the month is \$100.' As your neighbor stares at you, making no apparent move to hand over the money, you patiently explain that, should he refuse to make the required payment, you will unfortunately have to label him a criminal, at which point he will be subject to long-term confinement in your basement, along with the aforementioned vandals. Indicating the pistol at your hip, you note that you are prepared to take him by force if necessary.

**Q:** Does your neighbor owe you \$100? Would it be fine for you to force your neighbor into your basement if they don't pay up?

## The Question

Now consider the Singaporean government (or any government, really). This government punishes people for violating other people's rights and for disobeying its commands. And it collects non-voluntary payments (taxes) to finance its activities. But this is just the kind of thing you do in **The Village**. So, if you wouldn't have the authority to do such things in **The Village**, why would the Singaporean state have the authority to do them in the real world? We'll call this *the question of political authority*. To rephrase it:

**The Question:** Why should we think that the state has political authority?

We'll say that a state has *authority* when (1) People should obey its laws and (2) It may punish those who break its laws. So, **the question** really decomposes into the following two questions:

**Political Obligations:** Do we have a duty to do what the state tells us to do? In particular, do we have a duty to obey the law?

**Political Legitimacy:** If we break the laws, can the state permissibly punish us? In particular, is it wrong for the state to throw us in jail for breaking the law?

What would it mean if the answer to these questions was "no"?

**Lack of Political Obligations:** We should distinguish between things one has independent reason to do and things one has reason to do only because the law directs you to do them. So, you have independent reason not to murder people: murder is wrong, whatever the law says. But, perhaps, you don't have independent reason to pay your taxes or to avoid taking drugs. You only have reason to do these things because the law tells you to do them. So, if there isn't a duty to obey the law, it seems you have no reason to do these things.

**Lack of Legitimacy:** States punish people all the time for breaking laws. They arrest them, fine them, put them in jail. If this is immoral, then the officials involved in it are doing something seriously wrong. So judges, police officers and jail guards are doing something very wrong by playing a part in this system. You should think of them like you would think of private individuals who kidnap people.

So, it matters whether we have political obligations and whether our states are legitimate. In the rest of the class, we'll just focus on **political obligations**. And, in particular, we'll just focus on whether we have a duty to obey the law. So, our main question will be:

**Our Question:** Do we have a duty to obey the law? If we do, why do we have this duty?

- **Activity:** Let's try to generate ideas about why we might have reason to obey the laws. I want everyone to give a reason why we might have a duty to obey the law. The point is just to get some possible explanations of why there might be a duty to obey the law on the table. Your idea doesn't have to be fully thought through or anything like that. Just try to come up with up an idea!

## Social Contract Theory

**Our Question:** Do we have a duty to obey the law? If we do, why do we have this duty?

**Social Contract Theory:** We do, because we've *promised* to obey the law. We have a duty to keep our promises. So, if we've promised to obey the law, we have a duty to obey the law.

**Problem:** There's a big problem for this view. Almost nobody has *expressly* promised to obey the law. Few of use have said to anyone "I promise to obey the law." Few of us have made a verbal promise to obey the law. So, why think most of us have promised to obey the law?

**Possible Solution:** We've *tacitly promised* to obey the law. This means we've promised to obey the law without verbally doing so. How have we done this? The most prominent view is that we've done it by *residing* in the country. Living in a country is sufficient to promise to obey that country's laws.

Here are some examples of tacit promising:

**Restaurant:** Suppose you sit down in a restaurant and order a meal. When the bill comes, you can't complain "I just wanted something to eat! I never promised to pay for it!" You did promise to pay. You just did so tacitly.

**Meeting:** Suppose you're sitting in a meeting. The chairperson says "If nobody objects, we'll meet again next Tuesday 10am." You don't object. You say nothing. In this case, it seems you've agreed to meet again at 10am next Tuesday.

(a) Think up a couple different examples of tacit promising.

(b) Try to think up some necessary and sufficient conditions on tacit promising.

## Residence Condition

So some think residence in a country suffices to have tacitly promised to obey that country's laws. This means anybody who lives in a country has tacitly promised to obey that country's laws. And the theory is that that gives them a duty to obey the laws. Is this correct?

**Invalidity Objection:** Some promises are invalid. They don't give rise to duties. Suppose, for example, you promise to give a kidnapper your money in exchange for your freedom. You could only avoid this by forgoing something you had a right to enjoy: your freedom. So, the promise is invalid. It doesn't generate a duty to give the kidnapper your money. Yet, typically, people have a right to remain in their country of birth. This is because emigrating is so enormously costly: it requires that they leave behind their friends, family, home. They have a right not to incur these costs. So, if not emigrating *does* count as a tacit promise to obey the law, it is an invalid promise. So it doesn't generate a duty to obey the law.

(c) What do you think of this objection? Do you think it refutes social contract theory?

## Fair Share Theories

A *co-operative scheme* is a project we undertake with others for the pursuit of *benefits*. When we're engaged in such a scheme, we have a duty to do our *fair share* in the production of these benefits. For example:

**Lifeboat:** You are in a lifeboat with several other people. You are caught in a storm, and the boat is taking on water. The water must be bailed out. Other passengers take up containers and start bailing. The other passengers' efforts are clearly sufficient to keep the boat afloat; thus, no large negative consequences will result if you refuse to help them. Nonetheless, intuitively, you should help bail out the boat. You'd be doing something wrong if you didn't help bail out the boat.

- (a) The *co-operative scheme* is keeping the boat afloat.
- (b) The *benefit* is not drowning.
- (c) Your *fair share* is bailing water out of the boat.

Here are two other cases:

**Team Project:** You've been assigned to a team project with three other people. You only need an A- to pass the course. Your three team members have begun working hard on the project. It's clear that, if you leave it to them, you'll get the A-. There's a presentation at the end of the project. You're especially good at making powerpoint slides. What should you do? Do you have a duty to help out with the project?

**Lighthouse:** You're a shipowner who often uses the port at Alexandria. There's recently been a lot of shipwrecks coming into the port. So, all the other shipowners have got together and decided to build a lighthouse. They've each put in 1000 Alexandrian dollars to get the construction going. You'll benefit a lot from the lighthouse being built; it'll reduce the chance of your ship being wrecked. Terry, a fellow shipowner, asks you to contribute 1000 dollars to the building fund. What should you do?

1. Identify (a) the co-operative schemes, (b) the benefit you get from the scheme and (c) what your fair share would be in these cases.
2. Decide whether you think you should do your fair share in these cases.
3. Think up one more case like this. That means think up another case where it seems like you should do your fair share towards producing the benefits of a co-operative scheme.

## The State as a Co-operative Scheme

The idea is that our political obligations might just be duties to do *our fair share*.

**The State:** A common thought is that the state is a co-operative scheme. The idea is that sustaining and running the state is a project we undertake together with our fellow citizens. And we receive benefits from this project. We get education, security, infrastructure, lighthouses, healthcare. So, plausibly, we have a duty to do our fair share in the production of these benefits. And, some people think, obeying the law is part of doing our fair share. So, we have a duty to obey the law.

- (i) What do you think of this view? In particular, compare the state to (a) the **Team Project** and (b) the **Lighthouse** and (c) the **Lifeboat**. For each of these cases identify some similarities between the state and these cooperative schemes, and some differences. Which of these schemes do you think the state is most similar to?

Here are some objections to this theory:

1. **Pointless Laws.** Maybe paying your taxes is doing your fair share in the production of the state's benefits. But it's far less obvious why not taking drugs or not jaywalking are required for one to do one's fair share to this production. These don't seem to contribute to the state's survival. The state wouldn't collapse were people to generally jaywalk. So, it's not clear that this argument generates a duty to obey *all* the laws. It is limited, in the sense that it at most generates a reason to obey some of the laws.
2. **Better Alternatives.** Maybe you should obey tax laws rather than buying yourself a new car. You should do your fair share to support the state rather than spending the money on yourself. But maybe you can do your fellow citizens more good by giving the money to charity rather than by paying your taxes. In the U.S., at least, when you pay your taxes a lot of the money goes to things of little clear worth: it goes to subsidies for Iowan farmers or to building new aircraft carriers. You could benefit your fellows more by donating the money to a homeless shelter. So, maybe you have weightier reason to do this than you do to obey tax laws.
3. **Bad States.** Some states are bad states. The North Korean state is an extremely oppressive state. Perhaps it provides its citizens with some benefits, but it also does them enormous harm. North Korea is an egregious example, but most states have some glaring flaws. The U.S. state imprisons roughly the same number of people, per capita, as does North Korea (!). Every day 80,000 U.S. citizens are in solitary confinement. So the U.S. state also harms its citizens in clear ways. Yet when a cooperative scheme has such glaring flaws, when it harms its members in serious ways, that seems to undercut the members' obligation to do their fair share in the production of its benefits. So, for many states, the bad states, fair share theories will not apply.

(ii) Try to come up with a reply to each of these objections. Which one do you find most convincing? What do you think of them overall?

## Further Reading

For a nice statement of the question, read Michael Huemer's *The Problem of Political Authority*, Chapter 1. For the most historically influential exposition of social contract theory, take a look at John Locke's *Second Treatise on Government*, Chapter 8. For a contemporary critique of this view, read Huemer's *The Problem of Political Authority*, Chapter 2. For a discussion of a different version of the fair share theory, read Christopher Wellman and John Simmons's *Is There a Duty to Obey the Law?*. There are also several other attempted justifications for state authority. For a justification that grounds state authority in gratitude, see A.D.M Walker's "Political Obligations and the Argument from Gratitude." For a justification that grounds it in our relationships with our fellow citizens, see Samuel Scheffler's "Membership and Political Obligations." For a justification that grounds it in democracy, see Daniel Viehoff's "Democratic Equality and Political Authority." For a general criticism of these views, see Part I of Huemer's *The Problem of Political Authority*. For a general argument that the state does not have authority, see Robert Paul Wolff's *In Defense of Anarchism*.

## References

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