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A Liberal Proposal to Justify State Authority

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Abstract

In this article, I set out to design a plausible liberal theory of political obligation that a) revolves around the idea of voluntary consent, and b) explains why in certain instances, obligations toward political authorities may arise. To achieve this goal, I build upon and radically revise George Klosko's theory of fair play, which is centered on the unavoidability of non-excludable goods. I argue that the theory of fair play suffers from a critical deficiency as it cannot withstand the libertarian charge first propounded by Robert Nozick. In particular, it cannot explain why certain non-excludable goods should be held "presumptively beneficial," regardless of actors' preferences. I propose to abandon the notion of "presumptively beneficial" goods altogether. Instead, I contend that freedom (and the possibility of voluntary consent, for that matter) is severely curtailed in the hypothetical original position, in which individuals are supposed to pursue their economic activities; for this reason, the exchange of existentially necessary material goods cannot be based on consent. I underscore that such a conception of political obligation does not have an apodictic character. Moreover, it still suffers from several unresolved problems characteristic of general approaches to political obligation. However, it provides a promising starting point to develop a truly liberal justification for obeying modern state authority.

Introduction

Justifying coercive state authority has proved to be an uneasy task for liberals. Liberalism is grounded in the idea of voluntary consent, which makes it a powerful alternative to authoritarian modes of thinking. The canonical texts of the liberal tradition, such as John Locke's ([1689] 2016) *Second Treatise on Civil Government*, appeal to the will of the people as a core constituent element of sovereign power. Despite such firm roots in the liberal tradition, the consent theory of authority has often come under intense scrutiny. Following A. John Simmons's (1979) seminal work on political obligation, some liberals coalesced around the view that defining political obligation is a futile task. However, some of them found a way to circumvent this problem by arguing that one can still justify the legitimacy of the government, for example, by appealing to the notion of natural duties without providing a universal definition of political obligation (see Edmundson, 1998; Buchanan, 2004).

Amidst such a climate of skepticism toward the universal justifications of authority, the argument of fair play is one prominent exception that stubbornly attempts to normatively justify a legitimate government from a liberal point of view and shows why the citizens are required to obey it. The starting point of this approach is in line with the basic liberal premise that voluntary consent is the main normative reason for complying with the orders of coercive authority. Because of this, the approach allows for the protection of such values as autonomy and ensures that individuals give voluntary consent to the demands of collective bodies. At the same time, by demonstrating that consent is not possible in all circumstances, the approach offers us a way to legitimize the state without giving up on its liberal foundations.

The origin of the argument of fair play can be traced back to H. L. A. Hart (1955). At some point, John Rawls (1964) also shared a similar view.¹ However, the most famous and well-argued version of the argument is offered by George Klosko (1992, 2005, 2018). In contrast to the previous versions, Klosko's account is more cognizant of the libertarian, consent-based objections, against which it advances an argument of "presumptively beneficial"

¹ It is also noteworthy that later, Rawls (1999, p. 294) rescinded his earlier view and started to argue that the duty to obey the government is a natural one.

non-excludable goods. Klosko (1992, pp. 34–36; 2018, pp. 35–60) contends that coercive authority cannot be justified when it comes to the production and exchange of excludable goods (i.e., goods—both natural and human-created—that can be physically split among individuals). Such goods can be freely deprived of individuals who do not fulfill their end of the bargain. However, as the argument goes, the situation changes radically when it comes to the fair distribution of non-excludable goods, such as security and a clean environment, as they are unavoidable in the sense that the beneficiary cannot be deprived of their effects. Consequently, Klosko (1992, pp. 36–37) claims that since non-excludable goods naturally forego consent, their existence is a sufficient basis for justifying coercive authority.

The major problem with Klosko’s argument of fair play is that it cannot explain on what basis certain non-excludable goods can be considered to be “presumptively beneficial.” As Robert Nozick (1974, pp. 93–94) famously argues, the existence of any type of supposedly beneficial non-excludable goods, such as a neighborhood entertainment scheme, can be used as justification for coercive authority. In the standard libertarian view, what counts as “presumptively beneficial” for each person depends solely on the demonstrated preferences of that person. Thus, imposing “thick” ethical conceptions of goods on individuals would be tantamount to establishing coercive authorities before even providing justifications for their existence.

To accommodate the libertarian objection, I will radically alter the theory of fair play, and instead of the non-excludability of public goods, I will focus on how, in extreme circumstances, individual choices to produce and exchange certain existentially necessary material goods are involuntary. To drive home this point, I will devise a highly hypothetical original position in which all relevant natural resources are equally distributed. I will show that in such circumstances, individuals have no choice but to cooperate in order to secure the material goods necessary to meet the standards of survivability and healthy life that are prevalent in the 21st century. A hypothetical situation described in this article, despite its radical nature, allows much more freedom for individuals to produce and exchange material goods individually than is possible in today’s world, in which glaring inequalities are rampant. And since acceptable alternatives to cooperation are absent even in the most propitious circumstances described by the hypothetical situation, modern-day political obligations toward state authorities are justified.

Of course, my justification for obeying coercive authority is not apodictic. Instead, this argument leaves open the possibility of renouncing state authority in such circumstances where each individual has an acceptable alternative *not* to cooperate in order to produce existentially necessary material goods. Moreover, there are a handful of serious problems plaguing general theories of political obligation that are impossible to address within the limits of this article and that require substantial future research. In this sense, the argument that is sketched out here only prepares the ground for a full-fledged liberal account of political obligation.

Below, I will first unravel the basic premises of the argument of fair play, as it is offered by Klosko, and show where the major weakness of such an approach lies. In the next two sections, I will put forward the notion of voluntariness that is relevant to a liberal theory of political obligation. Then, I will demonstrate that in the highly hypothetical scenario of the original position, the production and exchange of certain existentially necessary material goods have no acceptable alternatives other than cooperation. I will argue that the results of this thought experiment have a direct bearing on our understanding of voluntariness and political obligations. Finally, I will conclude by emphasizing the importance of the present argument for the liberal theory of political obligation in the context of some of the remaining hurdles for constructing such an account.

The Argument of Fair Play, Its Main Strength and Weakness

To understand the gist of the argument of fair play, one needs to first distinguish between excludable and non-excludable goods. As is generally accepted, excludable goods are those that an individual can be *physically* deprived of. Consider the example of a group of individuals who decide to set up a collective farm and produce some physically divisible agricultural goods, which they dole out among themselves according to the size of their respective contributions. If any of them ceases to do their *fair* share in a collective effort, others will stop supplying that person with the excludable good in question. In other words, it is physically possible to deprive the excluded individual of the good that was produced thanks to the concerted effort of the whole collective. In contrast, non-excludable goods, such as security or clean air, cannot be *deprived of in a physical sense*,

even if an individual refuses to accept them for some reason. The physical inability to forego a good creates a situation where one can evaluate one's own preferences but cannot act accordingly. Klosko's theory of fair play states that because, in the case of non-excludable goods, individuals have no choice in deciding whether or not to exclude others from the benefits of the non-excludable goods, a coercive authority should be set up to ensure their fair allocation (Klosko, 1992, pp. 36–37).

The main advantage of Klosko's approach is that it is inherently liberal—that is, it starts from the premise that a voluntary production of goods and services determines fairness. If I freely exchange my smartphone with someone and receive an ordinary pencil in return, then such a deal is fair because it was made between two consenting adults. However, as Klosko's argument goes, one cannot determine what is fair in this subjective way in all circumstances. Most notably, in the case of non-excludable goods, it is impossible to ascertain what fair production or exchange is from a subjective point of view, and that's why we are justified in resorting to "objective" standards of fairness. And the latter, supposedly, leads to political obligations since there should be someone who would determine what fairness is in the absence of subjective criteria. In formal terms, Klosko's argument looks as follows:

A Subjective Fairness Premise (SFP): The production and exchange of goods are fair if the participants have an opportunity to evaluate and act on their own subjective preferences regarding the terms of the agreement. In other words, in ideal circumstances, fairness involves voluntary consent.

A Non-Excludability Premise (NEP): If the benefits of certain goods are non-excludable, then their production and exchange cannot be judged either fair or unfair from a subjective point of view.

An Objective Fairness Premise (OFP): If the production and exchange of certain goods cannot be judged either fair or unfair from a subjective point of view, then it is justified to allocate the goods fairly in an objective manner. Objectivity, in this case, refers to the standards of fairness that are not evaluated from the subjective point of view of each participant in a voluntary enterprise but instead are judged from the standpoint of moral authority.

The most important objection to the theory of fair play comes from its libertarian critics. It should be noted that the libertarian objections to Klosko's theory that I present in this section only involve either normative considerations or practical observations that affect the normative rationale

behind upholding the theory of fair play. I do not discuss such libertarian rejections of the concept of non-excludable goods that are made merely on technical grounds—for example, the view that the physical excludability of a “public” good depends on the ingenuity of a producer and the current technological level of development. I will pursue a charitable reading of Klosko’s argument and assume that there are at least certain non-excludable goods that are physically unavoidable, given the current state of technological development.

In contrast to the technical objections to the concept of non-excludable goods, ethical criticisms, propounded by libertarians, question the normative side of Klosko’s argument—in particular, the *NEP*. Most famously, Nozick (1974, pp. 93–94) mounts a powerful challenge to the idea that the existence of non-excludable goods incurs political obligations. He provides an example of a neighborhood entertainment scheme where different neighbors take turns to provide entertainment for the rest. If one of them refuses to participate, that person cannot reject the service since the latter is non-excludable. Nozick (1974, pp. 93–94) argues that it would not be right to maintain that a non-cooperative neighbor should be forced to participate in the scheme. So, even if it is true that non-excludable goods are unavoidable and hence the *SFP* cannot be met, it is still unclear why, following the same logic, we cannot apply the *OFP* to many private goods that may have relatively minor unavoidable effects. Indeed, as libertarian critics show, there are lots of private goods that can be deemed non-excludable, and without knowing the demonstrated preferences of consumers, it is hard to argue that any of them can even be considered “goods” (see Hoppe, 1989; Block, 2003, pp. 313–314; Wiśniewski, 2018, pp. 27–29; Rothbard, 2006, pp. 47–50). To put it differently, the libertarian objection states that because we have no reliable information about the actors’ subjective preferences, we cannot regard something as valuable for everyone (even if it is considered to bring overwhelmingly positive benefits for many people).

In response to the libertarian challenge, Klosko (1992, pp. 38–47) contends that Nozick hastily dismisses the argument of fair play because his example involves a trivial, non-excludable good, whereas receiving more serious or “presumptively beneficial” goods, such as security, should create an obligation to contribute. To put it differently, trivial goods could have been refused had an individual possessed a physical alternative. In contrast, on this view, security is a non-excludable good that can be more or less

uncontroversially considered beneficial, and for this reason, its existence should elicit fairness-based considerations. In such a case, Klosko (1992, pp. 34–36) argues that as the fair distribution of security cannot be guaranteed via free production and exchange, it is justified to resort to coercion.

Obviously, libertarians would not be content with Klosko's solution. For one thing, it is questionable on what basis certain goods are considered to be "presumptively beneficial" in an objective manner. As was mentioned above, the definition of a "public good" cannot be provided from a neutral point of view. Thus, because of its defense of "presumptively beneficial" goods, Klosko's theory of fair play comes close to a natural duty account of political obligation. The latter implies that we have a natural duty to defend certain goods or values, which in turn leads to political obligations (see Rawls, 1999, p. 99; Wellman, 2005; Buchanan, 2004).

It should be noted that, despite similarities, there are significant differences between natural duty accounts and Klosko's theory of fair play. First, the theory of fair play is more cognizant of the so-called particularity problem (see Klosko, 2020). As A. John Simmons (1979, p. 31) famously argues, any plausible theory of political obligation should explain why we are obliged to obey a particular political authority. Natural duty theories unequivocally fail to pass this test since they cannot "localize" those political obligations that arise out of the duties they defend (see Simmons, 2005; Klosko, 2020). However, the particularity requirement is not fully met by Klosko's theory of fair play, either, as it is not entirely clear according to what specific criteria individuals are obliged to obey particular authorities and not others. For example, certain powerful states, such as the United States, provide security protection to those individuals who do not reside on their own territory, and based on the argument of fair play, it is deeply ambiguous what the limits of their authority are. The second difference is that the theory of fair play appeals to fairness considerations, whereas the natural duty accounts of justice do not. Political obligations that are based on natural duties arise independently of how fairly individuals contribute to the valuable effort, whereas according to the theory of fair play, individuals are only obliged to do their fair share in the production and exchange of such goods from which they personally benefit (see Klosko, 2020). However, following Simmons (2005), I argue that despite these differences, the theory of fair play is still a type of natural duty account of political obligation because of the central role the ethically "thick" notion of "presumptively beneficial goods" plays in it.

I argue that there is a way to reformulate Klosko's theory of fair play without smuggling "thick" ethical notions, such as the concept of "presumptively beneficial goods," into it. In my view, the basic intuition of Klosko's approach is correct: To develop a plausible liberal theory of political obligation, one should start from the fundamental liberal premise that the free production and exchange of goods are fair and show that in certain cases, such a model is unworkable and incurs political obligations. As Klosko (2018, pp. 37–39) rightly acknowledges, in this respect, his fairness theory of authority comes very close to the consent theory of authority since both are premised on the moral importance of voluntary consent. However, I contend that because the theory of fair play cannot overcome the libertarian challenge posed by Nozick without collapsing into a natural duty theory of political obligation, another way needs to be found to devise a proper liberal theory of political obligation.

Freedom and Voluntariness

Before I move on to the explication of my main argument, I need to expound on what is meant by "freedom" and "voluntary consent." I start with a critical discussion of the distinction offered by Serena Olsaretti (1998) between freedom and voluntariness. In Olsaretti's view, "freedom" is a state of affairs that gives an agent the physical possibility to choose an acceptable alternative. In other words, it is about the options that are available to us (Olsaretti, 1998, p. 53).² In contrast, voluntariness is an expression of a person's inner state—the will of an agent—that is independent of freedom. Olsaretti (1998, p. 71) suggests that "a choice is voluntary if and only if it is not made because there is no acceptable alternative to it." According to this argument, since voluntariness is about a person's inner state, in certain circumstances an agent can make a voluntary choice, even in the absence of freedom. For example, an inhabitant of an insurmountably walled city is unable to leave. However, the city has all that anyone could ever ask for, and aware of this, the inhabitant has no wish to leave it. According to Olsaretti (1998, p. 71), it can be said that this person voluntarily remains in the city. On the opposite side,

² Such a definition of freedom should not be confused with that of freedom as the diversity and/or quality of options.

if one accepts a job offer out of desperation, one *is* free (because there is an option not to work) but may act non-voluntarily because the person may find the alternative to be too unpalatable, and this might be a reason why the offer was not declined (Olsaretti, 1998).

While Olsaretti's distinction is useful in delineating two ontologically different phenomena, freedom (the presence of external conditions that indicate that there is an acceptable alternative) and voluntariness (a truly free decision from the inner perspective of an actor), it does not have much practical purchase, epistemologically speaking. In reality, even if actor A stated a reason, according to which the act was not motivated by the absence of alternatives, we cannot conclude that the behavior was voluntary. Determining whether or not a person acted voluntarily depends on the evaluation of non-internal, external criteria. For example, a hostage might be called in the middle of a hostage crisis and asked about a specific act undertaken at gunpoint. The hostage may reply that the act was perfectly voluntary. But mere confirmation on behalf of an actor does not suffice to conclude that the behavior was truly such. If even expressed consent cannot automatically imply voluntariness, then without evaluation of additional, external conditions, it is impossible to judge whether an action was voluntary in all circumstances. In view of this, epistemologically speaking, we decide whether a person acted voluntarily or not in the same manner as we determine either the presence or absence of freedom—that is, by examining the conditions of action—to find out whether there was an acceptable alternative.

Based on the foregoing, we should infer whether or not an act was voluntary by looking at the conditions of freedom. And because such an inference depends on how we evaluate concrete external circumstances, our judgments could always be wrong.

For this reason, it is safer to judge whether an action was voluntary or not by examining the conditions of freedom in the most extreme scenarios. In less than extreme scenarios, it can be more or less successfully argued that the existence of particular circumstances may indicate that the actor's choice might have been voluntary, even in the absence of freedom (or alternatively, might have been involuntary, even in the presence of freedom). For example, of course, there is a chance that I would make a decision at gunpoint that I had already decided to make before I was taken hostage, but in most cases, this would be extremely unlikely. We normally assume that the decisions that are made in such extreme, life-threatening circumstances are not voluntary

because there is a very high chance that they were made because the person had no other choice. In such circumstances, it is justified to say that the person was not acting voluntarily because of the total absence of freedom. Such a total absence of freedom is not very common, beyond the realm of criminal acts, and for this reason, normally, we assume that in such situations in which there are some sorts of alternatives, individuals act more or less voluntarily.

It can be argued, especially from a libertarian standpoint, that my equation of unfreedom with involuntariness in certain circumstances is as arbitrary as Klosko's characterization of certain goods as "presumptively beneficial." However, there are important differences between the two. First, Klosko offers a "thick" ethical conception and accordingly defines specific goods as presumptively beneficial in most circumstances. In contrast, it is only in exceptional circumstances that I assume that unfreedom implies involuntariness. Second, Klosko introduces an external ethical criterion with which he tries to stabilize his theory of fair play in the face of the libertarian charge. I, on the other hand, take the basic liberal concept of voluntary consent as a starting point and argue that in only certain extreme circumstances, the absence of freedom implies the absence of voluntariness. The existence of such circumstances is very hard to deny, as is seen in the example of a person at gunpoint.

In general, it is not possible to devise a successful model of a political society without taking for granted at least some notions that have a *minimal* normative value. For example, the concept of freedom, as used by liberals, begs the question of what it means to be free. Does freedom imply doing whatever one wants to do? Or does it imply doing whatever one wants, given that others' similar rights are expected? Is acting freely tantamount to acting voluntarily? If yes, how do we assess whether a choice is voluntary? For example, if a person expressly states that a choice was voluntary, should this be taken at face value? These kinds of questions are virtually unavoidable for any plausible conception of politics, and all of them require us to take a normative point of view. For example, as is well known, for a Nozickian-type libertarianism, voluntariness implies a prior grounding in rights (Olsaretti, 1998; Wysocki, 2021, pp. 49–51). Such a conception of voluntariness is, arguably, normatively even thicker than the one presented in this article, since the latter remains agnostic toward the justifiability of particular rights. Instead, it only asks whether a person has an acceptable alternative to pursue or not.

In the next section, I will show that if my conception of freedom is correct, then it leads to the realization that, in some extreme circumstances, certain actions are involuntary and hence unavoidable. As we shall see, such a logic will eventually lead us to the justification of political obligations.

Involuntariness and Political Obligations

What does it mean for the liberal theory of political obligation that in certain, most extreme circumstances, an absence of freedom automatically indicates an absence of voluntariness? Recall that we discarded Klosko's proposed solution to devise a liberal theory of political obligations and started to look for a premise that could guarantee a transition from the *SFP* to the *OPF*, after the failure of the *NEP*. In my opinion, such a feat can be accomplished by the following principle, which is based on the conclusions made in the previous sections:

The Involuntariness Premise (IP): In the most extreme circumstances, action is involuntary in the virtual absence of freedom, and for this reason, the production and exchange of goods cannot be judged to be fair or unfair from a subjective point of view.

The validity of this premise is easy to see in the example of a person at gunpoint, which is uncontroversially about the most extreme circumstance in which freedom is virtually absent. However, to justify extensive political obligations, the gunpoint situation and other similar scenarios are less relevant for two reasons. First, what happens at gunpoint is not a permanent state of affairs that could justify political obligations toward the state authority. If it were permanent, one could argue, in a quasi-Hobbesian manner, that it is justified to relegate our rights to a state authority that would be able to judge what is fair and unfair from an objective point of view.³ However, such an argument would largely depend on general assumptions about human psychology (or what Hobbesians and others would call "human nature"). It is dubious to what extent such generalizations are possible. Second, even if the situation in which individuals are under constant threat were to be permanent,

³ As Thomas Hobbes (1651/1998, p. 85) famously argues, "to this war of every man against every man, this also is consequent; nothing can be unjust. The notions of right and wrong, justice and injustice have there no place. Where there is no common power, there is no law: where no law, no injustice."

it is still not obvious why the establishment of a permanent political authority is needed. We can argue that once all major threats coming from aggressive individuals are removed, individuals can dismantle state structures and resort back to an anarchic way of living. Especially if it is guaranteed that an anarchic mode of living will generate sufficient wealth and income for everybody, and all participating parties are known to be well-cultured, responsible, and amicable individuals with strong communal bonds, it is hard to justify permanent obligations owed to the state authorities. At some point, in such circumstances, the “withering away of the state” could become a reality.

However, despite the difficulties with gunpoint scenarios, the usefulness of the *IP* for our purposes can still be redeemed. In the next section, I will show that voluntariness is much more durably deprived in the production and exchange of certain existentially necessary material goods. For this reason, an establishment of coercive authority is warranted in the current period of human history.

The Original Position to Justify the Modern State Authority

I find it plausible that when it comes to cooperation to produce and exchange certain types of material goods, voluntary consent alone cannot dictate what is fair. This is because, as we shall see, the cooperation to produce and exchange existentially necessary material goods is necessarily involuntary, given the current level of technological development. If my argument is correct, by following the logic implicit in the argument of fair play, we can justify overriding consent in securing the existentially most valuable goods until their *independent* provision cannot be achievable for a single individual.

To show that the production and exchange of certain material goods violate the *SFP*, I will construct a highly ideal original position. The aim of such a thought experiment is to devise the best possible scenario in which the parties will be maximally ensured that they have an opportunity to subjectively assess and voluntarily act on their preferences. This hypothetical original position stands in stark contrast with the realities of everyday life, which are rife with the facts of coercion and extreme material depravity due to the existence of inequalities arising from natural, sociopolitical, and other sorts of differences. If the production and exchange of excludable goods

cannot be established as *subjectively* fair in such a highly idealized original position, this would mean that the *SFP* cannot be satisfied in real life as well (since everyday reality is much less conducive to the voluntary production and exchange of material goods than the original position).

I divide the construction of the original position into two stages. First, I consider an initial hypothetical situation in which certain natural resources are distributed fairly; and second, I look at a hypothetical situation in which those goods derived from initial natural resources are produced and exchanged based on the requirements of the *SFP*. In this way, we will be able to test whether or not the production and exchange of certain material goods violate the *SFP* by satisfying the *IP*.

In contrast to my version of the original position, the famous Rawlsian original position does not consist of two stages, as it assumes that the individuals have already decided to cooperate and accepted the coercive basic structure of a society as legitimate. As Harry Beran (1987, pp. 58–59) notes, Rawls completely disregards the possibility of voluntarily opting out of the cooperative scheme to such an extent that he does not consider such rights as the right to emigration or secession to be fundamental parts of the initial agreement. For this reason, it is apparent that Rawls is not interested in the initial distribution either, since under his scenario, no such distribution is relevant before the coercively binding cooperation takes place. In this article, I am interested in determining whether, after the initial distribution takes place, coercion can be avoided in the process of production and exchange of certain material goods. Below, I will first show that, despite such idealized assumptions in place, it is still problematic to devise an objectively egalitarian original position. Then I will argue that at the next stage, granted that the perfectly egalitarian initial distribution is somehow achieved, the *SFP* would still be violated because the distribution of certain material goods satisfies the *IP*.

The Original Position I: Before the Production and Exchange of Goods Takes Place

How should the initial pool of natural resources be divided to give everyone an acceptable opportunity to voluntarily act on their preferences and thus satisfy the *SFP*? Let us first consider famous hypothetical scenarios that,

unlike the Rawlsian one, deal with the hypothetical distribution of initial resources. For example, Ronald Dworkin (2000, pp. 65–120) seriously considers the problem of an initial distribution in his famous desert island example. In Dworkin's scenario, people who are stranded on a desert island are given a fixed amount of token money to participate in an auction to divide unclaimed land. In contrast to Dworkin, in establishing the terms of the initial distribution of resources, Nozick (1974, pp. 178–182) adheres to the Lockean formula, according to which the right to own property originates from the individuals' efforts to mix their labor with natural resources. Both of these scenarios are appealing for various purposes, but they can hardly serve as ideal candidates for constructing the original, in which the justifiability of the *SFP* as applied to material goods can be tested. This is because, in both of these scenarios, inequality would naturally occur for different reasons. In Dworkin's scenario, such inequality is the result of individual preferences, whereas in Nozick's scenario, the productivity of workers and sheer luck affect the gradual appropriation of natural resources in the original position.

Because of the foregoing, I choose to consider a much more egalitarian initial distribution of natural resources, where the latter are more or less equally divided among the individuals. I assume that such a division could be fair. But if someone chooses to adhere to a different initial distributive pattern—for example, Nozickian, Dworkinian, or some other—this does not affect my argument since, compared to the perfectly equal distribution, the others are more likely to result in less opportunity for an individual to assess and act on subjective preferences. Recall that we are much more interested in the best possible scenario, in which the likelihood of satisfying the *SFP* for each individual is greater.

Now, a perfectly egalitarian division of initial resources cannot be theoretically possible. The first stage of such a division would be the distribution of land. Provided such a division can be accomplished fairly, the equal distribution of other natural resources would encounter considerable difficulties. For example, one may get entitled to a remote oil deposit, but it would require an additional effort from that person to gain access to the resource compared to those owners of the deposit that are settled in the vicinity of the oil field. Arguably, this makes land the only natural resource that does not require additional logistical effort to access.

Other natural resources that are equally divided could be traded but not exploited in an equal manner by sparing the same effort.

Thus, the unequal distribution of natural resources on Earth creates the first serious problem for the *SFP*. Even if we assume that the equal distribution of land is possible, the equal distribution of natural resources seems impossible. The inability to equally distribute natural resources would inevitably distort the fair terms of the exchange later, as those who have easier access to the resource will be able to use it much more easily than those who live far from it. We may rectify this hypothetical problem by granting more resources to those who live far away, thus compensating for the extra effort they need to spare to use the given resource. However, this would violate the *SFP at least temporarily*, as we are not allowed to use non-subjective preferences (the objective assessments of a theorist or a policymaker) in order to determine how much each resource costs.

Despite such difficulties with the initial distribution of natural resources, we can still choose to adhere to the highly idealized model of the original position and presume, for the sake of argument, that a perfectly egalitarian distribution of resources is theoretically possible. For example, we can imagine a hypothetical planet where natural resources are equally distributed across the whole land, or where the natural resources are already extracted and can be divided equally. Or we can assume that such an initial distribution of natural resources can be achieved by violating the *SFP*, and then the governing authority could be dissolved to allow an anarchic society to flourish.

Another major difficulty with the egalitarian distribution of initial resources is that genetic differences among humans cannot be equally distributed (due to technological constraints and our present ethical or religious beliefs). But for the sake of argument, we can assume that such differences will not be too great and would not generate inequalities under the ideal scenario where all material resources are distributed equally. Taking into consideration the above-mentioned obstacles, we devise a far-fetched hypothetical scenario in order to test the *IP* in the most idealized circumstances, where the likelihood of its success is far greater than in less-than-ideal circumstances, such as in an everyday sociopolitical life, which is full of material depravity and coercion.

The Original Position II: An Involuntariness of Cooperation

Once natural resources are equally distributed in our highly hypothetical scenario, we can inquire whether, at all subsequent stages, it is possible for individuals to cooperate in order to produce and exchange certain material goods without being deprived of the means to subjectively evaluate the terms of cooperation and voluntarily act on their own preferences. I believe that the answer to this question is fairly straightforward.

It is obvious that the alternatives to receiving essential material goods in the original position are extremely unpalatable. For each individual in the original position, a refusal to cooperatively produce and exchange some basic necessities, such as food, clean water, clothing, or shelter, means facing an existential, or life-or-death, dilemma. Essentially, an alternative to not producing and exchanging such material goods is the prospect of pursuing a solitary economic life that would gradually result in starvation, disease, and eventual premature death. In the most favorable case, if someone somehow manages to get these basic necessities without the requisite tools that are usually collectively produced and exchanged, that would not be enough to secure *a basic contemporary standard of living*. For example, it would still be extremely difficult and sometimes almost impossible for any one individual to produce modern, existentially necessary material goods, such as basic medicine, hygienic goods, heating devices, etc.

Here, a further specification of what “existentially necessary goods” means is needed. Undeniably, what constitutes an “existentially necessary material good” is relative and varies from time to time or from country to country. For this reason, I consider something to be existentially necessary if it can be produced and distributed globally on a massive scale with the use of modern technologies. For example, in medieval Europe, access to modern life-saving healthcare services could not be considered “existentially necessary” simply because such services did not exist. But from today’s perspective, access to vaccines or professional medical treatment is an existential matter (even a mere unattended toothache can make a person’s life utterly unbearable). Moreover, even nowadays, in many developing countries, people do not have access to adequate healthcare services. For example, according to a study by the World Bank and the World Health Organization, more than half of the world’s population cannot access essential healthcare services (Taylor, 2023). According to a study in *The Lancet*,

around 1.4 million deaths and 74 million disability-adjusted life-years could have been prevented by safe drinking water, sanitation, and hygiene in 2019 (Wolf et al., 2023). But this should hardly be used as a yardstick for measuring what cooperation among humans can accomplish with modern technologies.

Considering the baseline of what counts as an existentially necessary good, it is apparent that the collective development and maintenance of modern technologies are needed for around 7.8 billion people on Earth to survive. Thus, it seems that if we apply the *IP* to our highly hypothetical original position, it is plausibly satisfied. Recall that despite it being an extreme scenario, the hypothetical original position offers much more individual freedom to produce and exchange goods *independently* than is possible in today's world, where millions of individuals live in abject poverty. For this reason, the transition from the *SFP* to the *OFFP*, via the *IP*, is plausibly accomplished in real life as well.

Conclusion

In this article, I set forth an argument that strengthens the liberal theory of political obligation by demonstrating in what ways the unavailability of voluntary consent seems to warrant the establishment of coercive authority. As I mentioned at the outset, such a view does not reject consent as a cornerstone of the theory of political obligation and allows for the protection of such pivotal liberal values as autonomy. Instead, it proves that the impossibility of voluntary consent in certain extreme circumstances warrants the establishment of legitimate political authority, at least against the background of the current level of technological development.

It is noteworthy that the argument developed in this article leads to the justification of modern state authority to a much greater extent than Klosko's original account. For one thing, it warrants the existence of coercive authority for governing the production and distribution of existentially necessary material goods, not just of "presumptively beneficial" non-excludable goods. Such authority may or may not adhere to the specific rules of egalitarian distribution (e.g., a particular model of welfare capitalism). But regardless of the preferred distributive scheme, coercive authority is needed to figure out and enforce the principles of fairness.

Admittedly, there are still substantial hurdles left in the way of establishing a proper liberal theory of obligation, even if we accept the present argument. First and foremost, it is not clear what role voluntary consent plays in the overall liberal conception of political obligation. Apparently, consent cannot be totally overridden in all circumstances if we are willing to give individuals the right to emigration or grant collective entities the right to self-determination. Provisionally, we can contend that satisfying fair play considerations (as they are described in this article) is a sufficient but not necessary condition for justifying obedience to a coercive authority. Second, like Klosko's original account, the argument developed in this article cannot solve the so-called "particularity problem." It is entirely unclear why an individual should obey one particular political authority but not another. Moreover, it needs to be decided whether the scope of the argument of fair play is local or cosmopolitan. Third, the current argument makes no effort to address the so-called "boundary problem," that is, the question regarding the limits of coercive authority. How many people, fewer or more, should be included in the coercive distribution of resources? Which geographical borders are legitimate and which are illegitimate, based on the arguments discussed in this article? Such questions remain entirely unresolved. And last but not least, there is a problem with the scope of coercive authority. For example, should such authority govern the distribution of those goods that are impossible to produce and exchange in a free manner, or should all goods be produced and distributed according to the rules and regulations that are coercively enforced? One may argue that if we follow the approach advocated in this article, substantial chunks of modern economies will be left to their own devices. Will such an arrangement be justified?

Addressing the above-mentioned questions is clearly beyond the scope of this article. The best we can hope for is to solve this large puzzle in a piecemeal manner and assume that one day a more complete picture will appear on the horizon.

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