

THE NATURAL BASIS OF POLITICAL OBLIGATION*

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I. INTRODUCTION

Though questions of political obligation have long been central to liberal political theory, discussion has generally focused on voluntaristic aspects of the individual's relationship to the state, as opposed to other factors through which the state is able to ground compliance with its laws. The individual has been conceptualized as naturally without political ties, whether or not formally in a state of nature, and questions of political obligation have centered on accounting for political bonds.

Within the liberal tradition,¹ the main arguments for political obligations have been based on individual consent, as epitomized in Locke's *Second Treatise* and the Declaration of Independence.² However, consent theory has long been criticized on the ground that adequate numbers of citizens cannot be shown to have consented expressly to their governments. Since Hume's essay, "Of the Original Contract" (1748), it has been clear that adequate numbers have not consented tacitly either.³ Although the idea that political obligation rests on consent still has an important role to play in liberal theory—especially in the form of "hypothetical" consent⁴—I believe that consent theory has left a generally unhelpful

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¹ To avoid unnecessary complexity, I discuss liberal theory on a general level and am not concerned with questions of precise definition. As I use the term, the liberal tradition has at its center the individual and his rights, more or less regardless of how these rights are established and regardless of whether they extend beyond the essentially negative rights of classical liberalism to encompass economic and other welfare rights. Thus, in addition to Locke, Montesquieu, and Mill, this view includes Hobbes and both Rawls and Nozick.

² John Locke, *The Second Treatise of Government*, in Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988); "Declaration of Independence," reprinted in Alexander Hamilton, John Jay, and James Madison, *The Federalist* (New York: Modern Library, n.d.), 619–22.

³ David Hume, "Of the Original Contract," in Hume, *Essays, Moral, Political, and Literary*, ed. Eugene Miller, rev. ed. (Indianapolis, IN: Liberty Classics, 1985). See also the important discussion of A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), chaps. 3 and 4.

⁴ See Hannah Pitkin, "Obligation and Consent," *American Political Science Review* 59, no. 4 (December 1965): 990–99; Jeremy Waldron, "Theoretical Foundations of Liberalism," *Philosophical Quarterly* 37, no. 147 (April 1987): 127–50; and Immanuel Kant, "On the Common Saying: 'This May Be True in Theory, but It Does Not Apply in Practice,'" in Kant, *Kant's Political Writings*, ed. Hans Reiss (Cambridge: Cambridge University Press, 1970).

residue. In concentrating attention on the "isolated individual" and his decision whether or not to commit to political society, consent theory and this underlying view of the individual have deflected attention away from other aspects of the individual's relationship to the state that are more promising grounds for political obligation. To the extent that consent theory is central to the natural law tradition, problems with consent can be viewed as shortcomings of natural law theory as well.

In this essay, I criticize the isolated individual as this conceptualization bears on questions of political obligation. I focus on one particular aspect of the individual's relationship to the state: the claim that the state must provide the individual benefits or services that are necessary for an acceptable life. If we grant this claim, then the baseline position on questions of obligation should not be the isolated individual in the state of nature, but the individual as recipient of indispensable state benefits; adopting the latter baseline makes political obligations far easier to justify. I will concentrate on a theory of political obligation rooted in the principle of fairness; this principle, I shall argue, is able to account for essential state services and their role in political obligations.⁵

An argument along these lines leaves open the counterargument that the state is not necessary to supply the benefits in question. According to political philosopher A. John Simmons, if people would prefer to receive through other means those services provided by a given political body, then they do not incur obligations to that body under the principle of fairness.⁶ Accordingly, I will examine the claim that alternative means of supply can obviate obligations people would otherwise have.

My main contention is that, at minimum, alternative provision mechanisms must meet a standard of reasonable plausibility if they are to dissolve any political obligations. Because a certain range of state services is necessary for satisfactory lives, people can avoid obligations to the state only if they can convincingly maintain that they can obtain these benefits through other means.⁷ The nature of this plausibility requirement is discussed below. I will examine the possibility of alternative supply, as well as the conditions that must hold if different conceivable mechanisms are

⁵ A full exposition of fairness theory, on which I will draw here, can be found in George Klosko, *The Principle of Fairness and Political Obligation* (Savage, MD: Rowman and Littlefield, 1992). Other grounds of political obligation that do not involve voluntary commitment include gratitude, a natural duty of justice, and consequentialism. For an additional possibility, reciprocity, see Mark Hall and George Klosko, "Political Obligation and the United States Supreme Court," *Journal of Politics* 60, no. 2 (May 1998): 466-68.

⁶ A. John Simmons, *On the Edge of Anarchy* (Princeton, NJ: Princeton University Press, 1993), 256-60.

⁷ It is possible to deny the need for the services in question altogether, which would make it easier to defeat arguments for political obligations. Such an approach, however, would take one beyond the parameters of liberal theory. In this essay, I confine my attention to liberal theory, and so do not discuss this approach. In addition, although the specific benefits discussed in this essay are those of a modern industrial society, my arguments could easily be recast to be made applicable to other kinds of societies.

to meet the requirement. Although I do not claim that alternative supply is impossible, consideration of various mechanisms will indicate that they do not meet it. As we will see, the plausibility requirement is necessary because, while advocating alternative supply, a given individual, Smith, receives essential services from the state and will continue to do so unless her alternative means are likely to work. To return to the point made at the opening of this essay, while Smith may conceive of herself as an isolated individual and resist attempts to subordinate her to the state, indispensable state benefits render her by nature (as Aristotle would say) a member of society.

In contemporary political theory, criticisms of the atomistic individual are not uncommon, nor are claims that the individual is, in some essential sense, a member of society. These are, of course, common themes in communitarianism.⁸ In this essay, I set aside common communitarian concerns about the nature of individual identity and how this nature is discovered. These problems can be avoided here because the aspects of community membership on which I focus are minimal and subject to little controversy. For the sake of this essay's argument, the community can be viewed simply as individuals jointly providing and receiving important benefits. I do not contend that this conception exhausts the essence of community, or make claims about its centrality to the notion of community. Perhaps other aspects of the relationship between individual and community remain controversial, but there can be little doubt about those invoked by the conception here. As we shall see, even this modest view of the community supports the plausibility requirement and its accompanying implications for political obligation.

My discussion will proceed in four parts. In Section II, I outline a theory of political obligation rooted in fairness and describe the role that essential state benefits play in this theory. Section III examines Simmons's criticisms of this theory and considers alternative supply. Since alternative mechanisms are a central concern in game-theoretic analysis, Section IV considers possibilities from this perspective. Section V draws out some implications and presents a brief conclusion.

II. FAIRNESS OBLIGATIONS

The principle of fairness was first clearly formulated by H. L. A. Hart in 1955:

[W]hen a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to

⁸ See especially Michael Sandel, *Liberalism and the Limits of Justice*, 2d ed. (Cambridge: Cambridge University Press, 1998); and Charles Taylor, "Atomism," in Taylor, *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985).

these restrictions when required have a right to a similar submission from those who have benefited by their submission.⁹

The moral basis of the principle is fair distribution of benefits and burdens. Under certain conditions, the sacrifices made by members of a cooperative scheme in order to produce benefits also benefit noncooperators, who do not make similar sacrifices. According to the principle, this situation is unfair unless there are morally relevant differences between the noncooperators and the members of the scheme. The principle, then, is intended to justify the obligations of noncooperators.¹⁰

The principle of fairness operates clearly in certain cases. If we assume that three neighbors cooperate in order to dig a well, a fourth who refuses to share their labors but later goes to the well for fresh water is subject to condemnation by the cooperators. Roughly and briefly, when a person takes steps to procure benefits generated by the ongoing cooperative labor of others, he incurs an obligation to share the labor through which the benefits are provided.¹¹ In regard to questions of political obligation, however, things are more complicated. Because of their nature, the benefits that are of greatest interest cannot be procured, or even accepted. These benefits are important public goods produced by the cooperative efforts of large numbers of people coordinated by government. The clearest examples are public goods bearing on physical security, most notably military defense, law and order, and important provisions concerning public health and protection from a hostile environment.¹² Because public goods such as these are nonexcludable, they must be made available to a wider population (or the entire population of some territory) if they are to be supplied to certain members. This presents an immediate problem: explaining how individuals who have not accepted these goods incur obligations. Given the voluntaristic orientation of liberal theory, many scholars argue that because these public goods are not accepted, they cannot generate political obligations under the principle of fairness.¹³

The most celebrated presentation of this line of argument is that made by Robert Nozick in *Anarchy, State, and Utopia*. Nozick puts forth a series

⁹ H. L. A. Hart, "Are There Any Natural Rights?" *Philosophical Review* 64, no. 2 (April 1955): 185. Some of the language used below in describing the workings of the principle is from Klosko, *Principle of Fairness*.

¹⁰ David Lyons, *Forms and Limits of Utilitarianism* (Oxford: Oxford University Press, 1965), 164; John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 112. The underlying moral principle is analyzed by Richard Arneson, "The Principle of Fairness and Free-Rider Problems," *Ethics* 92, no. 4 (July 1982): 616-33.

¹¹ For discussion, see Klosko, *Principle of Fairness*, chap. 2.

¹² Though I will not discuss other possible members of this class, I do not rule out that others may exist.

¹³ The dependence of political obligation on accepting benefits is noted in Rawls, *Theory of Justice*, 113-16; as well as Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 95; and Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986), 192-93.

of hypothetical situations. For instance, suppose a group of neighbors bands together to institute a public-address system in order to provide their neighborhood with entertainment and other broadcasting. If there are 364 other neighbors and each runs the system for one day, is Smith obligated to take over the broadcasts when her day comes? Nozick assumes that Smith has benefited from the scheme by listening to the broadcasts, but that she nevertheless would prefer not to give up a day.¹⁴ If the neighbors form a street-sweeping association, must Jones sweep the street when his turn comes, even if he does not care a great deal about clean streets? If he refuses to sweep, must he "imagine dirt" when he goes outside, so as not to benefit as a free rider?¹⁵ Nozick believes that Smith and Jones do not have obligations in cases of this sort: "One cannot, whatever one's purposes, just act so as to give people benefits and then demand (or seize) payment. Nor can a group of persons do this." According to Nozick, the principle of fairness does not "serve to obviate the need for other persons' consenting to cooperate and limit their own activities."¹⁶

According to Nozick, then, individuals cannot have obligations imposed on them through the receipt of particular benefits unless they agree to the obligations. In essence, Nozick leaves us with a version of consent theory, the individual having to accept his political bonds. The force of Nozick's argument, however, is blunted by examination of the specific benefits discussed in his examples. It is striking that these benefits are of relatively low value. Thus, we must see what happens if we consider schemes that provide more substantial benefits.

As I have argued elsewhere, I believe that when three main conditions are met, the principle of fairness is able to generate powerful obligations under which individuals should contribute to cooperative schemes that provide nonexcludable benefits. These conditions are met when the public goods supplied (1) are worth the costs required for their provision, (2) are indispensable for satisfactory lives, and (3) have benefits and burdens that are fairly distributed.¹⁷

For our purposes here, the most important condition is (2). My main contention is that when this condition is satisfied, voluntaristic aspects of

¹⁴ Nozick, *Anarchy, State, and Utopia*, 93-94.

¹⁵ *Ibid.*, 94.

¹⁶ *Ibid.*, 95.

¹⁷ Throughout this essay, I generally use the terms "nonexcludable goods" and "public goods" interchangeably. As the term is commonly used, public goods are not only nonexcludable, but are also characterized by "nonrival consumption," that is, A's consumption of the good does not affect the amount available for consumption by other individuals. This aspect of public goods is not of immediate concern here. On public goods, see John G. Head, *Public Goods and Public Welfare* (Durham, NC: Duke University Press, 1974).

Returning to the three conditions, it should be noted that for condition (2) to be satisfied, the public goods in question must be worth their costs for all recipients, including those who would prefer not to cooperate rather than to have the costs imposed on them. For reasons of space, I discuss only condition (2) in this essay. Throughout, I assume that conditions (1) and (3) are met, and so do not examine them in detail. For discussion of these and other important aspects of the principle of fairness, see Klosko, *Principle of Fairness*.

political obligations lose much of their purchase. Roughly and briefly, if something is indispensable to Jones's welfare, then we can assume that he benefits from the mechanisms that provide it, even if he has not sought out their services. This is especially important in the case of public goods bearing on security, for one receives these goods without having to pursue them. Because of the importance of such goods, unusual circumstances must obtain for Jones not to benefit from receiving them. Though the class of indispensable public goods is perhaps small, it undoubtedly encompasses those crucial goods mentioned above as being necessary for physical security. That we all need these public goods regardless of whatever else we need is a fundamental assumption of liberal political theory. Liberal theorists generally view providing them as a central purpose of the state, and as we will see, even theorists who argue for alternative supply do not question the need for them.

Let us imagine that Green receives indispensable public goods from cooperative scheme X. Does the fact that Green cannot accept these public goods mean that he does not incur any political obligations as a result of receiving them? Suppose that X provides military defense, which is not only nonexcludable but unavoidable for inhabitants of the territory covered by X. A strong argument can be made that Green does incur obligations in this situation. Because military defense is an unavoidable good, Green receives it whether or not he pursues it, and in fact could not pursue it even if he wished to. Given that the benefits of defense are indispensable, we can presume that he *would* pursue them (and bear the associated costs) if this were necessary for their receipt. If we imagine an artificial choice situation analogous to a state of nature, it seems clear that under almost all circumstances, Green would choose to receive the benefits at the prescribed cost if he had the choice.¹⁸ Because defense is indispensable, it would not be rational for him to choose otherwise. In the case under consideration, however, Green's obligation to the members of X does not stem from hypothetical consent—that he would consent to receive the benefits under some circumstances—but from the fact that he actually receives them.¹⁹ Therefore, the element of choice or consent is of relatively little importance here. Its main function, in the form of hypothetical consent, is to help formulate a check, to make sure that unusual features of a particular situation do not cancel out the strong presumption that Green does incur an obligation.²⁰

¹⁸ The main exceptions would be circumstances under which the benefits were not worth their costs. For example, in hopeless circumstances, military defense will not be worth the costs needed to secure it. See Klosko, *Principle of Fairness*, 55–56.

¹⁹ The discussion here draws on Klosko, *Principle of Fairness*, chap. 2, where I also consider and counter other possible arguments against obligations in such cases.

²⁰ Because the benefits supplied by the state are indispensable, the principle of fairness is able to generate obligations even when compliance with them is costly. Theories with other bases—in particular, those based on a natural duty of justice—are able to generate only weak obligations; see George Klosko, "Political Obligation and the Natural Duties of Jus-

Indispensable goods other than defense include, once again, law and order, public health measures, and protection from a hostile environment. In regard to law and order, under which I include the full benefits of the legal order, it is important to note that these benefits go beyond bare physical security. Law and order also make possible an overall framework of ordered liberty that is necessary if we are to carry on sustained activities in a stable, predictable environment. Included in this framework is the coordination of the numerous complex systems necessary for a functioning economy and all that such an economy entails. Given the highly integrated nature of life in modern industrial societies, virtually everyone in these societies benefits constantly—and at extremely high levels—from the legal order.²¹

III. ALTERNATIVE SUPPLY AND THE PLAUSIBILITY REQUIREMENT

As noted above, Simmons argues that the principle of fairness does not generate political obligations.²² In *On the Edge of Anarchy*, he defends a Lockean theory of political society, which he characterizes as "probably the single most influential" theory on that topic in the history of political thought.²³ Locke, of course, places the individual in the state of nature and claims that free consent is a necessary condition for legitimate political relationships.²⁴ As Simmons notes, consent is an intuitively clear and forceful basis for political obligations.²⁵ However, even if we grant that consent is a sufficient condition for political obligations, it remains to be shown that other bases are not adequate. I am concerned in this essay with what Simmons describes as "benefit/reciprocation" theories,²⁶ and will therefore examine his reasons for rejecting one such theory that is based on the principle of fairness.

tice," *Philosophy and Public Affairs* 23, no. 3 (Summer 1994): 251–70. On the role of indispensability in fixing the content of political obligations, see George Klosko, "Fixed Content of Political Obligation," *Political Studies* 46, no. 1 (March 1998): 53–67.

²¹ For our purposes, it is not necessary to distinguish law and order from the legal order. The benefits from both can be considered together under the designation "law and order." The highly integrated character of modern society and the role of authority in overseeing this integration are well discussed by John Finnis in his *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), chap. 9. An eloquent account of the value of stable background conditions is given by Edmund Burke in his November 1789 letter to Charles Depont, reprinted in Burke, *The Selected Letters of Edmund Burke*, ed. Harvey Mansfield (Chicago: University of Chicago Press, 1984), 256–58.

²² For Simmons's other criticisms of the principle of fairness, see Simmons, *Moral Principles*, chap. 5; and A. John Simmons, "The Anarchist Position: A Reply to Klosko and Senor," *Philosophy and Public Affairs* 16, no. 3 (Summer 1987): 260–68. I respond to these arguments in Klosko, *Principle of Fairness*.

²³ Simmons, *On the Edge of Anarchy*, 5.

²⁴ Locke, *Second Treatise*, sec. 95. In his most recent work, Simmons describes "the natural freedom of persons" as "a basic and plausible Lockean premise." A. John Simmons, "Justification and Legitimacy," *Ethics* 109, no. 4 (July 1999): 752.

²⁵ Simmons, *On the Edge of Anarchy*, 72–79.

²⁶ *Ibid.*, 76.

Simmons's main objection to a nonvoluntaristic account of the principle of fairness, such as the one presented in Section II, is that it could lead to the imposition of obligations on an individual "who genuinely does not want the goods some cooperative scheme is providing or who would genuinely prefer to do without those goods rather than pay the price demanded for them."²⁷ Simmons's argument can be countered. Because the benefits discussed in Section II are indispensable, we can set aside the possibility that Jones would really prefer to do without them.²⁸ More troubling is the possibility that he would prefer not to receive these benefits at the required price. Since one necessary condition for the generation of fairness obligations is that the relevant goods must be worth their costs,²⁹ I will concentrate on cases in which Jones would prefer not to pay the requisite price. I quote Simmons:

[T]here are no public goods produced by cooperative schemes that are needed or indispensable *simpliciter*, and so there is no product of a cooperative scheme that can be said to be on balance a benefit (presumptively beneficial) for anyone without further qualification. Goods are only benefits to persons on balance if their costs and the manner in which they are provided are not sufficiently disvalued by those persons. Even a good like physical security . . . may be reasonably regarded by an individual as on balance a burden if it is provided at a prohibitive cost . . . or in a manner that is unnecessary and objectionable.³⁰

Because, again, indispensable goods are necessary for acceptable lives and would appear to be worth their costs (as assessed ordinarily), the most interesting cases, for our purposes, concern the provision of these goods in "objectionable" fashion, that is, cases in which individuals would prefer to have them provided through something other than the scheme currently providing them. Simmons notes that "many public goods supplied by the state can be provided by alternative, private means, often at a lower cost and without the imposition of oppressive or restrictive conditions." Someone "who prefers to try to provide [some indispensable] good privately, can hardly be accused of unfairly taking advantage of a

²⁷ *Ibid.*, 256.

²⁸ The means through which the imposition of obligations on Jones can be justified are discussed in Klosko, *Principle of Fairness*, chap. 2; for reasons of space, I do not repeat that material here. We should note, however, that in all cases, *ceteris paribus* principles hold in regard to conditions. The obligations in question are *prima facie* and so hold in the absence of strong countervailing considerations; for a brief discussion of *prima facie* obligations, see Klosko, *Principle of Fairness*, 12–14.

²⁹ As argued in Klosko, *Principle of Fairness*, 48–49, the burden of proof here is on proponents of a given cooperative scheme. Given the great value of indispensable goods, however, it should be possible for them to meet this in many cases.

³⁰ Simmons, *On the Edge of Anarchy*, 258.

group that unilaterally foists that good upon her on their own terms."³¹ Accordingly, this objection to nonvoluntaristic obligations under the principle of fairness turns on people's preferring that the indispensable goods that a given scheme supplies be provided through other means.³²

In order properly to assess Simmons's objection, we must have a clear idea of what alternative supply of public goods will be like. There are numerous issues here that Simmons does not explore, but which nevertheless need to be examined. In inquiring whether Jones's preference for alternative supply of some public good exempts him from a requirement to cooperate in the scheme that provides it, I wish to avoid "impossibility arguments." Rather than ask whether alternative mechanisms are possible, we will concentrate on whether they are plausible. In particular, as noted above, we will focus on whether these mechanisms can meet a standard of reasonable plausibility.

Although the plausibility condition is necessarily somewhat vague, it can be filled in to some extent.³³ We can identify at least three basic requirements that an acceptable alternative arrangement must meet. The first and most important requirement involves what we can call *feasibility*. The mechanism must be able to provide necessary services in recognizably effective ways. For instance, any satisfactory military establishment will have to have effective modern armaments. It will not be enough to rely on loosely organized citizen-soldiers and their hunting rifles.³⁴ The second requirement, which is closely related to the first, is that the mechanism must involve reasonable *background* conditions. In order not to be obviously utopian, the mechanism should not rely on improbable, large-scale changes in the human condition. The anarchistic end-state described by Lenin in *State and Revolution*, for example, would require enormous changes in conditions: it "presupposes not the present productivity of

³¹ Both quotations are from *ibid.*

³² Simmons's argument here represents a departure from his position in *Moral Principles*. In that work, he is within the liberal tradition, as he does not question state supply of indispensable benefits. The essence of his argument for "philosophical anarchism" is that, without questioning state supply, none of the basic arguments for political obligations survives scrutiny. In *On the Edge of Anarchy*, in contrast, Simmons departs from mainstream liberalism and is in effect an anarchist in a more conventional sense, in that he is committed to the nonliberal factual claim that voluntary association can provide important benefits we require.

³³ I am grateful to Colin Bird for discussion on this point.

³⁴ It could be argued that from a Lockean perspective, the individual himself should be the judge of feasibility. Although I agree that there is a presumption in favor of the individual's judgment, this does not hold without limits; some external standard of plausible feasibility should be appealed to here as well. Although this claim is necessarily somewhat vague—and no doubt controversial—on an abstract level, it becomes less so as it is employed in particular cases. As Richard Arneson argues, the fact that someone believes that "national defense is manna from heaven" does not free that individual from obligations he would otherwise have. In a case such as this, the individual has an obligation to acquaint himself with the morally relevant facts of the situation. Arneson, "Principle of Fairness," 632. When the individual's alternative measures do not satisfy a plausible standard of feasibility, the presumption that he should judge for himself is overruled.

labour and *not the present* ordinary run of people."³⁵ The main role of the background provision is to restrict the range of mechanisms that can be put forth as feasible.

The final requirement of the plausibility condition bears on the *transition* from existing to alternative mechanisms. An alternative mechanism will not be acceptable unless it can be constructed without significant violations of rights.³⁶ There must be a critical mass of people committed to the new mechanism, or at least the possibility of interesting sufficient numbers of people in the mechanism without resorting to unacceptable means. These people must not have to be "forced to be free."

A great deal more could be said on the question of what constitutes plausible alternative mechanisms. In order to avoid controversy, however, we can confine discussion to these points, which strike me as uncontroversial and seem in combination to comprise a minimal threshold of acceptable plausibility.

The reason for a plausibility requirement is straightforward. Jones should not be absolved of obligations generated by state supply of essential goods unless he does not need them. Because these goods are indispensable, Jones's obligations can be obviated only if he does not need them *from the state*, a condition that can be satisfied only if an alternative provision mechanism works. If no such mechanism works, Jones will continue to receive state benefits, and so should continue to have obligations on that basis. A strong case can be made that if a given alternative mechanism *is* able to provide Jones's indispensable goods, then he should not have obligations to the state. But things are more complicated if an acceptable alternative mechanism has not yet been set up. It would seem unfair not to allow it a reasonable opportunity to begin to work. Until the mechanism is up and running, however, its proponents must provide good reasons that it is likely to work before obligations they would otherwise have are waived.

Under certain conditions, a proposed alternative mechanism will satisfy the plausibility requirement, and it will therefore seem reasonable to allow Jones to pursue some benefit through the mechanism rather than the state. In order to shed some light on the factors at work in such cases,

³⁵ Vladimir I. Lenin, *The State and Revolution*, in Lenin, *The Lenin Anthology*, ed. Robert C. Tucker (New York: Norton, 1975), 380.

³⁶ Although not discussed in this essay, a set of acceptable rights is presupposed by fairness theory. A principle of political obligation is only a single moral requirement, which must exist in the context of—and be consistent with—a network of other acceptable principles. For discussion of how considerations along these lines limit political obligations under fairness theory, see Klosko, *Principle of Fairness*, 122–25. Defining the boundary between acceptable and unacceptable violations of rights raises complex issues that cannot be discussed here. At the very least, for an alternative mechanism to meet this transition requirement, the transition from existing society cannot cause *greater* violations of rights than would be alleviated by the development of the alternative mechanism. For discussion of this point, I am grateful to David Brink.

I will consider a number of schemes that provide public goods. Consider state services bearing on sanitation:

Case 1: As things stand, services bearing on sanitation are provided by the government. However, Jones and his neighbors are willing to pick up trash and otherwise provide for acceptable sanitation on their street.³⁷

In this case, there seems to be little reason—barring strong countervailing arguments from the state—not to allow Jones and his neighbors to provide these services in place of some state agency. To the extent that garbage collection is necessary for public health, it is a public good and requirements that people dispose of their garbage can be justified. However, the wide range of options through which people can do this would make it difficult for the state to demand the exclusive right to perform this service. Various neighborhood systems could readily satisfy the feasibility, background, and transition requirements discussed above.

Things become more interesting if greater coordination is needed to produce the relevant public good.

Case 2: As things stand, services bearing on the safety of the water supply are provided by the government. However, Jones and his neighbors are willing to take measures necessary to ensure acceptable sanitation of their water supply.

Consideration of Cases 1 and 2 shows the importance of what we can call *exclusivity*, a condition that applies when provision of a good must be by a single agency if such provision is to satisfy the feasibility requirement. As noted, for goods like garbage collection, it will be difficult to argue that provision through a single agency is necessary. Clearly, the entity claiming exclusive provision of some benefit must support its contention with convincing empirical or factual considerations to the effect that unless provision of the given benefit is exclusive, it is not feasible. Because individual liberty is an important value, there are strong reasons to allow Jones and his neighbors to provide their own benefits—public goods and otherwise—when the need for exclusive state supply cannot be demonstrated.

³⁷ It could be argued that trash collection is of little importance and is not a public good. However, brief reflection indicates that an acceptable means of dealing with trash is a necessary public health measure, and that some combination of this and other such measures constitutes an indispensable public good. For discussion of how to determine the form in which an essential public good should be provided, see Klosko, *Principle of Fairness*, 80–81.

Consider an additional example:

Case 3: As things stand, educational or entertainment broadcasts are provided by the government. However, Jones and his neighbors are willing to set up an alternative system of broadcasting along the lines of that discussed by Nozick.

The benefits involved in this case are public goods. Yet as long as the broadcast spectrum can handle more than one channel, the need for exclusive supply of these goods cannot be demonstrated. In cases such as this, in which nonexclusive or multiple supply is obviously feasible, there seems to be little justification for thwarting those parties who wish to establish their own provision mechanisms rather than use those administered by the state.

Exclusivity, of course, is not the only factor that goes into considerations of whether provision of a particular public good generates political obligations; Case 3 provides an illustration of this point. As we saw in the previous section, generating obligations from the provision of neighborhood broadcasting is difficult because this public good is of relatively low value. If Jones could easily do without a given benefit altogether, there seems to be little justification for preventing him and like-minded others from banding together to provide that benefit in a manner that accords with their own preferences. The factor of relative value, then, must be considered alongside exclusivity when we assess the role that various public goods play in delineating political obligations.

When Simmons argues that alternative provision mechanisms can obviate political obligations, he does not provide examples of the alternative mechanisms that he has in mind. It seems likely, however, that they are similar to those in Cases 1 and 3, either requiring little coordination or providing a benefit that is not of great value. When such factors apply, alternative mechanisms can be defended. However, the benefits that are most relevant to discussion of political obligation are essential public goods: these goods are of great value, and as we will see, they can only be provided through highly coordinated mechanisms. Case 2, involving water quality, is therefore more apropos for our purposes. If we stipulate that clean water is essential for acceptable lives, it should be possible to argue that Jones is required to contribute to some mechanism that provides this benefit. The question of whether he should be required to contribute to the specific mechanism controlled by the state would turn on factual questions concerning production. One would need to know whether provision of sanitary water is feasible only if done through a single mechanism, and, if so, whether this mechanism must be the state.

As one can imagine, while it might be possible to argue that state supply of clean water is the only feasible means of providing it, a

stronger case can be made for state supply of other essential goods. This is especially true for those goods discussed at the end of the previous section. Although the argument for state supply—and, consequently, for fairness obligations—is strongest with respect to military defense, it is also strong when one considers the goods of law and order, public health measures, and environmental protection. As noted above, “law and order” here encompasses more than physical security. It also includes the wider benefits of the legal order, namely, the coordination of the integrated systems of a modern society and the maintenance of the stable, predictable environment necessary for long-range planning. Clearly, all these benefits are essential, and therefore they must be supplied. I believe that feasible supply of each must be exclusive, and that in practice, all must be supplied by the same entity, the state. Though I cannot provide a knockdown defense of these claims, there are strong considerations in their favor. According to the standard, Weberian definition, the state is an agency that claims a *monopoly* of legitimate force within a given territory.³⁸ The difficulties occasioned when multiple agencies have the right to use force in a territory are central to the justification for political authority that Locke provides in the *Second Treatise*. These factors support exclusive supply of law and order.³⁹ At the same time, the degree of coordination necessary for the stable functioning of a modern industrial democracy implies a single controlling authority or, if there is more than one, some sophisticated means of coordinating their activities. Additional services must also be provided by the state. Although I will not discuss these matters in detail, I believe that effective public health measures and environmental protection must be supported by coercive authority, and hence must be supplied by the state. This holds for such public health measures as mandatory vaccination and quarantine, and for environmental challenges such as ensuring acceptably clean air and water. As for military defense, it is overwhelmingly clear that protection against external aggression must be exclusively controlled. It is hard even to imagine how

³⁸ Max Weber, “Politics as a Vocation,” in Weber, *From Max Weber: Essays in Sociology*, ed. and trans. H. H. Gerth and C. Wright Mills (Oxford: Oxford University Press, 1946), 78.

³⁹ Libertarian anarchists have described several reasonably plausible arrangements for immediate physical protection; these arrangements have been based on voluntary protective associations. See David Friedman, *The Machinery of Freedom* (New York: Harper and Row, 1973); David Friedman, “Anarchy and Efficient Law,” in John Sanders and Jan Narveson, eds., *For and Against the State* (Savage, MD: Rowman and Littlefield, 1996), 235–54; Bruce Benson, *The Enterprise of Law* (San Francisco, CA: Pacific Research Institute for Public Policy, 1990); and Murray Rothbard, *For a New Liberty* (New York: Macmillan, 1978). Central to these proposals is the idea that many aspects of protection are excludable goods and thus are subject to market forces. As Friedman points out, in existing societies, significant percentages of security expenditures and security personnel are private. Friedman, *Machinery of Freedom*, 219; see also Benson, *Enterprise of Law*. Detailed examination of these anarchist proposals is not possible in this essay. However, even if protection could be provided through voluntary associations, theorists have not shown how such associations can provide other essential public goods.

appropriate provision of military defense in a given territory could be done through more than one agency.⁴⁰

One will note that the preceding paragraphs contain references to providing essential public goods *in a given territory*. My assumption is that, as a factual matter, these central public goods must be provided exclusively in individual territories. I will not argue for territorial exclusivity at length, as it seems quite obvious, especially in regard to defense and law and order. Because this claim is a fundamental assumption of liberal theory, a scholar who argues against it should be required to present an acceptable account of the nonterritorial provision of central public goods. As is the case with alternative provision mechanisms generally, the standard here is not what is merely possible. Instead, the proponent of nonterritorial provision must provide an account of how it would satisfy the plausibility requirement.⁴¹

The territorial component of the exclusivity claim has significant implications. Unlike other public goods that can be provided by alternative private means *within a given territory*, the essential public goods of military defense, law and order, and environmental protection require territorial control. Accordingly, if Jones and his associates wish to opt out of government provision of these benefits, their alternative mechanism will not be acceptably plausible unless it is able to exercise exclusive control over their territory or some alternative.

Attaining a suitable territory in an acceptable way will raise enormous problems for proponents of alternative supply. I will not dwell on questions concerning the size that a territory must have in order to be viable. It is likely that both direct physical protection and the benefits of a legal order can be provided in a small community. However, with respect to military defense and environmental protection, problems of size are more formidable and could well render alternative supply impossible.⁴² Setting this issue aside, we confront formidable difficulties in explaining how Jones and his associates are to gain exclusive control over a territory, whether it be their own or some other. Up to this point I have invoked only feasibility concerns, but in this context, questions of transition cause

⁴⁰ Friedman characterizes provision of defense as "the hard problem"; his suggestions here are highly speculative (Friedman, *Machinery of Freedom*, chap. 34). Rothbard's suggestions are similarly improbable (Rothbard, *For a New Liberty*, 237-41 and chap. 14). Benson concedes the need for state provision of defense (Benson, *Enterprise of Law*, 373). Game-theoretic explanations of alternative provision also have problems with respect to defense; see note 63 below.

⁴¹ That the territorial basis of state services is a problem for consent theory is seen in Harry Beran, *The Consent Theory of Political Obligation* (London: Croom Helm, 1987); for discussion, see Allen Buchanan, *Secession: The Morality of Political Divorce* (Boulder, CO: Westview Press, 1991), 70-73.

⁴² Small territories like Monaco or Lichtenstein are sheltered by the protective umbrella provided by the great powers, and therefore arguably have political obligations to those countries. For brief discussion, see Klosko, "Political Obligation and the Natural Duties of Justice," 260 n. 18.

additional difficulties. Plans for alternative supply generally raise issues of secession. One of the many problems encountered here is that, as stated above, the transition requirement rules out significant violations of rights. The need to respect rights is reinforced by the voluntaristic premises of Simmons's position. Thus, inhabitants of a territory who do not wish to join Jones and his associates must not be forced to do so.⁴³ If these inhabitants wish to remain citizens of the existing polity, and hence under existing authorities, constructing an alternative mechanism in the territory will contravene the exclusivity claim. In other words, not only must Jones and his associates control a territory, but all (or virtually all) inhabitants of that territory must agree with them on how its public goods should be supplied. In view of all these problems, it is unlikely that any alternative mechanism for the provision of military defense, law and order, and environmental protection could be plausible.⁴⁴

Throughout any efforts Jones makes to establish an alternative mechanism, he will be receiving essential public goods from cooperative scheme X. One could ask here why Jones has obligations to X rather than to the alternative mechanism he wishes to establish. After all, examination of the historical record indicates the likelihood that existing governments achieved their positions through acts of military conquest or other injustices.⁴⁵ In other words, they were established in ways that fail to satisfy the transition requirement. If we assume that the establishment of X failed to satisfy the transition requirement, then why must Jones support X? There is a ready reply. Jones has obligations to X because he receives benefits from it that are necessary for an acceptable life. Other things being equal, as long as X provides the benefits in question and meets other necessary conditions (e.g., it distributes benefits and burdens fairly, provides democratic decision-making institutions, respects the rights of its citizens, etc.), questions of origins are largely irrelevant.⁴⁶

Jones could well complain about being required to comply with X when he would greatly prefer that its benefits be supplied through other means. According to the principle of fairness, the obligations a given individual incurs as a result of receiving public goods are obviated if

⁴³ See note 36 above.

⁴⁴ Though I will not go into depth on the matter, I should note here that the plausibility condition's background requirement plays an important role, both here and in the next section, in ruling out changes in conditions that would make organized coercive mechanisms unnecessary. For example, a proponent of some alternative mechanism who is faced with the objections to alternative supply presented in this section could not respond to these objections by saying that his mechanism would work if large-scale changes in human wants and desires could be brought about.

⁴⁵ I quote Hume: "Almost all the governments, which exist at present, or of which there remains any record in story, have been founded originally, either on usurpation or conquest, or both, without any pretence of a fair consent of voluntary subjection of the people." Hume, "Of the Original Contract," 471.

⁴⁶ The moral context and additional requirements of fairness theory are discussed throughout Klosko, *Principle of Fairness*; see also note 36 above.

there are morally relevant differences between the individual and the people whose cooperation produces the goods.⁴⁷ The question, then, is whether Jones's preferences constitute an adequate morally relevant difference. I believe they do not. In a diverse community, it is likely that people have a wide range of preferences concerning the provision of essential goods. For instance, some might prefer that military defense be provided by a standing army, while others might prefer a draft. Some might prefer reliance on nuclear weapons, even as others support a policy of "no first use." According to the exclusivity claim, however, the provision of defense in a given territory must take on one single form; therefore, some of those who disagree over the proper means of providing defense will have to be disappointed. The principle of fairness holds that decisions concerning provision of essential goods must be made through democratic means—that is, through reasonably fair democratic procedures.⁴⁸ Part of the costs involved in providing essential public goods is the need to accede to the preferences of the majority as to how these goods should be provided. In view of the likelihood that many individuals would prefer that a given good be provided through some other means, the fact that Jones would prefer alternative provision does not constitute a morally relevant difference between him and other citizens of X.⁴⁹

In summary, because Jones needs the goods that X produces in order to pursue a satisfactory life, the fact that he receives them generates an obligation for him to cooperate in their provision. He can obviate this obligation only if he can indicate alternative provision mechanisms that satisfy the plausibility requirements; as I have shown, however, finding such mechanisms is a difficult enterprise.

IV. GAME-THEORETIC ALTERNATIVES

Simmons is not alone in upholding alternative provision of public goods. Many scholars argue along similar lines using game-theoretic

⁴⁷ In cases where there are such morally relevant differences, one might wonder whether the differences (1) cause the dissolution of existent political obligations, or (2) prevent any such obligations from being constituted in the first place. Though I will not discuss the matter here, I believe the latter option is more likely.

⁴⁸ See Klosko, *Principle of Fairness*, chap. 3. For discussion of the attitudes in modern liberal states toward democratic institutions and democracy as a value, see George Klosko, *Democratic Procedures and Liberal Consensus* (Oxford: Oxford University Press, 2000), chap. 5.

⁴⁹ This fact would perhaps constitute a morally relevant difference if Jones's alternative preferences were so strong as to raise questions of conscience, in which case imposing majority decisions on him would represent an injustice. Though I cannot discuss here the complex issues concerning pacifists and conscientious objectors, I do believe that their situations involve this sort of strong alternative preference. In such cases, however, the recognition that the individual still has some obligations is seen in provisions for alternative service. For discussion of conscientious-objection practices in some two dozen countries, see Charles C. Moskos and John Whiteclay Chambers, eds., *The New Conscientious Objection* (Oxford: Oxford University Press, 1993).

approaches.⁵⁰ A central theme in the work of these scholars is criticism of one important justification for state authority. It is widely argued that the state is necessary for the provision of important public goods because nonstate arrangements have an incentive structure that prevents these goods from being provided. The scholars I am concerned with here argue that private cooperation can in fact provide the relevant goods. These theorists do not generally question the need for central public goods such as law and order and national defense. Rather, the thrust of their arguments is that state mechanisms are not necessary for the provision of these goods.

Game-theoretic analysis of public goods constitutes a large literature, much of which cannot be considered in this context. I will focus here on political philosopher Michael Taylor's recent, sophisticated argument for the feasibility of alternative provision, which I will interpret in the light of the plausibility requirements outlined in the previous section. I believe Taylor's argument is representative of both the strengths and the weaknesses of game theory. If the argument is successful, then one could contend, along with Simmons, that the possibility of alternative supply could obviate obligations otherwise incurred under the principle of fairness.

From a game-theoretic perspective, in many cases individual incentives in regard to public goods have the structure of N-person prisoners' dilemmas (PDs). Although Smith would be better off having good G than not having it, even at the cost of contributing to its provision, she would be even better off if she received the good without having to cooperate. There are two possible scenarios. If enough other people are going to cooperate to ensure G's provision, then Smith's contribution is unnecessary, and it is in her interest not to cooperate. If there are not enough other people cooperating, then it is certainly not in Smith's interest to do so, unless her individual contribution would determine whether or not G would be provided. In a large society (on which, more below), Smith's cooperation would be decisive only under rare circumstances. Considering both possible scenarios, then, we can see that it is not in Smith's interest to contribute, no matter what others do. Because we can assume that other people's incentive structures are similar to Smith's, we can predict that if they reason as she does, they too will not cooperate. This will lead to G not being provided, leaving everyone worse off than they would have been had they all contributed.

If provision of indispensable public goods is construed along these lines, then the need for the state is clear. By using its coercive power to

⁵⁰ See Michael Taylor, *The Possibility of Cooperation* (Cambridge: Cambridge University Press, 1987), discussed below. Similar views are advanced by many additional scholars; the contributors to Sanders and Narveson's *For and Against the State* constitute a representative sample.

compel general cooperation—"mutual coercion mutually agreed upon," in ecologist Garrett Hardin's famous formulation⁵¹—the state leaves everyone better off than they would have been had they been left to their own devices. Taylor refers to this conclusion as the "most persuasive justification of the state."⁵² Other scholars agree: according to political philosopher Jon Elster, "politics is the study of ways of transcending the Prisoners' Dilemma."⁵³

Theorists have worked out different methods of avoiding this conclusion. Taylor argues that the PD formulation above is inadequate. Under many conditions, he claims, we should interpret public-goods provision as a *supergame*, that is, as an *iterated* PD game.⁵⁴ Taylor maintains that traditional analysis of public-goods incentives is flawed because it is "entirely static." He notes, for example, that in economist Mancur Olson's classic analysis of these incentives, "the individual is supposed in effect to make just one choice, once and for all, of how much to contribute to the public good."⁵⁵ But the fact that political relationships are continuous opens the way for conditional cooperation. In a continuous relationship, Smith can realize the advantage of a strategy of conditional cooperation, in which she cooperates only if Jones does so as well. Because Jones should reason similarly, it is possible that Smith and Jones could find their way to joint cooperation. It is conceivable that one of the pair could adopt a strategy of unconditional noncooperation, that is, refusing to cooperate regardless of what the other player does. But since mutual cooperation is in each player's interest, this would not be rational. Conditional cooperation is frequently referred to as "tit-for-tat." Knowing that joint cooperation is in Jones's interest as well as her own, Smith can rationally take the first step by cooperating. If Jones takes advantage of her by not cooperating in response, he will gain in this single transaction. However, by acting this way, Jones risks leading Smith and himself toward practicing joint noncooperation in subsequent transactions, an outcome providing a lower payoff than would joint cooperation. Therefore, Jones should forgo the immediate advantage of noncooperation in favor of cooperation, to which Smith will respond by cooperating further, and so forth.⁵⁶ Extending this logic to an N-person PD game could result in a situation in which each person cooperates conditionally. Because general coopera-

⁵¹ Garrett Hardin, "The Tragedy of the Commons," *Science* 162, no. 13 (December 1968): 1247.

⁵² Taylor, *Possibility of Cooperation*, 1.

⁵³ Jon Elster, quoted in Taylor, *Possibility of Cooperation*, 19.

⁵⁴ Under other conditions, a correct construal of the situation would posit it as a game of chicken rather than as a prisoners' dilemma; see note 62 below.

⁵⁵ Taylor, *Possibility of Cooperation*, 12.

⁵⁶ See *ibid.*, chap. 3, for discussion of this process, including the complexities concerning discounts on future payoffs, a factor I have omitted here.

tion is preferable to general noncooperation, conditional cooperation could result in the production of desired public goods.⁵⁷

In one sense, this argument is convincing. Political interaction is not a one-shot process. But closer examination reveals that there are significant problems in moving from the two-person model to the N-person model. Though problems of transition (once again, the need to gain control of a given territory) could well be formidable here, I will set these aside and instead focus on feasibility considerations. As Taylor recognizes, successful conditional cooperation depends on each participant knowing about the behavior of other participants in each previous stage of the game.⁵⁸ This condition is satisfied far more easily in the two-person scenario than it is in the N-person scenario. Olson notes that solutions to PD problems become increasingly difficult as the group in question increases in size.⁵⁹ One reason for this is relevant here. To use Olson's term, a group can be described as "large" if the burdens of any one person's contributions are not affected by whether another individual does or does not contribute.⁶⁰ In a modern nation-state, this is true in regard to many requirements. For example, whether or not Jones pays his taxes will not detectably affect the payments required of other people, nor will it detectably affect the federal budget deficit (or surplus).⁶¹

As a society becomes increasingly large, feasibility considerations become increasingly problematic. In particular, the information requirements of conditional cooperation become more difficult to satisfy. In large societies, it is likely that other people will not know whether or not Jones has contributed, that is, whether he has paid his taxes, cooperated in some environmental conservation policy, signed up for military service, etc. This is especially true if there are no state agencies to monitor compliance. Yet if others cannot ascertain whether or not Jones has contributed, then the connection between his cooperation and general cooperation is broken. The traditional logic of the N-person PD will be in effect, and it will not pay for Jones to cooperate.

⁵⁷ Anthony de Jasay, for one, argues that treating large-number games as supergames solves the difficulties that they present. See Anthony de Jasay, *Against Politics* (London: Routledge, 1997), 206–8, 215–16. However, he deals only with performance and nonperformance of contracts, as opposed to wider forms of noncompliance, including noncontribution to necessary public goods. In the context of contributing toward these goods, noncompliance can be far more difficult to detect (as discussed below), and raises problems that de Jasay's argument does not address. For example, in many public-goods cases, a given individual's incentives to enforce another individual's compliance are significantly different from the incentives he would have in a contract situation. In a typical public-goods case, Jones's defection causes no detectable damage and so does not harm Smith or affect the costs associated with Smith's compliance.

⁵⁸ Taylor, *Possibility of Cooperation*, 61.

⁵⁹ Mancur Olson, *The Logic of Collective Action* (Cambridge, MA: Harvard University Press, 1965), 36, 48.

⁶⁰ *Ibid.*, 12.

⁶¹ For complexities here, see Klosko, *Principle of Fairness*, appendix 2.

Given these considerations, one must conclude that the iterated prisoners' dilemma is unlikely to yield satisfactory solutions to problems of alternative provision.⁶² Complex variations on this approach can produce solutions in the highly artificial frameworks of two-person interaction and small group interaction. However, if we increase the number of people or factor in other real-world impediments, it is unlikely that such constructions would satisfy the feasibility requirement.⁶³

Empirical evidence supporting this analysis is supplied by political scientist Elinor Ostrom.⁶⁴ Ostrom examines long-lasting associations in which participants are able to cooperate in the use of "common-pool resources" without authoritative interference. In these arrangements, cooperation is maintained through what Ostrom describes as "self-organized and self-governed enterprises."⁶⁵ Examples of such enterprises can be found governing, among other things, the use of high-mountain meadows in Switzerland, the use of common land in rural Japanese villages, and the irrigation practices of Valencia, Spain. The successful avoidance of free-riding in these and other instances could be thought to give the lie to the traditional logic of collective action as described above. However, Ostrom carefully delineates the special conditions that allow these arrangements to succeed.

A central fact about the successful cases is that in each one of them, "individuals repeatedly communicate and interact with one another in localized physical settings."⁶⁶ Repeated interaction reduces crucial problems of accumulating information and monitoring compliance with association norms. Among the conditions Ostrom identifies as making for successful cooperation are that groups are "relatively small and stable" and that participants "face relatively low information, transformation and enforcement costs."⁶⁷ The problem, of course, is that associations able to provide the essential public goods discussed throughout this essay will

⁶² These problems cannot be overcome by analyzing public-goods provision with the model of the game of chicken; see Taylor, *Possibility of Cooperation*, chap. 2. In a chicken scenario, different individuals or subgroups must be able to supply the relevant goods without outside assistance. However, in a large society, this condition will not ordinarily hold for the public goods that interest us. In addition, one must explain the incentives of individuals in these subgroups; these incentives appear to conform to those found in an N-person PD.

⁶³ The problems with game theory are epitomized by its inability to deal with providing defense. For instance, in *Against Politics*, de Jasay gives the problem extremely scant attention and offers no solution. See de Jasay, *Against Politics*, 208. In Sanders and Narveson's *For and Against the State*, a collection in which the practical and moral necessity of the state is assessed from a variety of game-theoretic perspectives, the problem of defense receives no serious attention.

⁶⁴ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990). Conclusions similar to Ostrom's are also presented in Robert Ellickson, *Order Without Law* (Cambridge, MA: Harvard University Press, 1991).

⁶⁵ Ostrom, *Governing the Commons*, 25.

⁶⁶ *Ibid.*, 183-84.

⁶⁷ *Ibid.*, 211.

not possess these attributes. Ostrom notes that "[w]hen individuals who have high discount rates and little mutual trust act independently, without the capacity to communicate, to enter into binding agreements, and to arrange for monitoring and enforcing mechanisms," they are unlikely to choose cooperative strategies.⁶⁸ Once again, the burden of proof falls on proponents of alternative supply to show that their arrangements are feasible when the conditions that Ostrom identifies as being conducive to successful cooperation are not in evidence.⁶⁹

It could be argued that in regard to game-theoretic analysis, the plausibility standard might represent too severe a test. It is not always clear that theorists who use game-theoretic approaches intend for their analyses to apply under real-world conditions. For instance, Taylor describes his main purpose as follows: "I have merely tried to show that, even if we accept the pessimistic assumption . . . that individual preferences have the structure of a Prisoners' Dilemma at any point in time, mutual [c]ooperation over time may nevertheless take place."⁷⁰ Taylor says that in criticizing PD logic, he "make[s] no attempt to provide a positive theory of anarchy or even an indication of how people might best provide themselves with public goods."⁷¹ But of course, unless game theorists are able to argue for the plausibility of their preferred mechanisms under real conditions, they will continue to receive essential benefits from the state and so will continue to incur obligations under the principle of fairness.

V. CONCLUSION

Game-theoretic analysis suffers from difficulties similar to those encountered in Simmons's extreme Lockeanism. On both accounts, the individual is conceptualized apart from society, deciding how best to satisfy her needs. Neither account considers the fact that this individual is currently receiving essential benefits from the state.

Because the views we have discussed overlook the entanglements of existing societies, they are subject to criticism. In this sense, a communitarian critique of liberal premises—a critique that, at least in spirit, goes back to Robert Filmer—is accurate. The fact that we *constantly* receive enormous benefits from the cooperative efforts of our fellows generates moral requirements for us to share their burdens. State of nature analysis is misleading because it implies that the baseline position for questions of

⁶⁸ *Ibid.*, 183.

⁶⁹ The experimental evidence supporting nonstate solutions to PD problems suffers from severe flaws. Specifically, the experiments that provided this evidence involved small groups of subjects and assigned artificially low values to the costs and benefits of cooperation. See Howard Harriott, "Games, Anarchy, and the Nonnecessity of the State," in Sanders and Narveson, eds., *For and Against the State*, 131-34.

⁷⁰ Taylor, *Possibility of Cooperation*, 105-6.

⁷¹ *Ibid.*, 105.

political obligation is that of an absence of obligations. On this account, if individuals do not consent or otherwise commit themselves to political bodies, then they do not have obligations. However, the fact that individuals are members of societies, conceived of as joint producers and consumers of essential benefits, entails a different starting point. As long as individuals do not commit themselves to *other* mechanisms, they have obligations to the existing arrangements from which they benefit.⁷²

Because we receive essential goods from existing mechanisms, the burden of proof lies with those who would reject their obligations. To be freed of the political obligations she would otherwise have under the principle of fairness, Smith must defend one of two problematic claims. She can assert that she does not require indispensable goods, a thesis that seems to be implausible on its face. The alternative, however, is that Smith will have to show that these indispensable goods can be provided to her through alternative mechanisms that satisfy a standard of reasonable plausibility. As we have seen, this will be a significant undertaking. Neither of Smith's options is particularly promising.

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⁷² For discussion of other specific moral requirements generated by membership in communities, see Richard Dagger, *Civic Virtues* (Oxford: Oxford University Press, 1997), chap. 4.

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