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Review

Reviewed Work(s): *The Limits of Government. An Essay on the Public Goods Argument* by David Schmidtz

Review by: George Klosko

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and its powerful human drama. Had Fenves explored that architecture more thoroughly he would also have brought before us a face of Kant's quite unfamiliar to the Anglo-American philosophical audience. Instead, we encounter the "signs," the traces of this mighty philosophical labor. It is as if, to employ yet another metaphor (to which the critic is entitled in view of Fenves's extensive use of them), we had already climbed the ladder of Wittgenstein's *Tractatus* and found ourselves in a thicket of signs, lost and in need of orientation. The most interesting thing, however, is why we had to climb that (Kantian) ladder, what its rungs consisted of, and what was lost and gained by that venture. It is this that is mostly missing from Fenves's book. This is most emphatically not to say that Fenves shows any lack of familiarity with the arguments of the three *Critiques* or that he does not refer to them. Rather, it is that they do not play the role of the philosophical *force créatrice* that they must if we are to understand the meaning of the profusion of signs that appear in this book. To understand the inventions of the *Chaconne*, it is necessary first to understand their origins in the architecture of that movement, so too with Kant.

—William James Booth  
McGill University

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*THE LIMITS OF GOVERNMENT: AN ESSAY ON THE PUBLIC GOODS ARGUMENT* by David Schmidtz. Boulder, CO: Westview, 1991, pp. xviii, 197, \$38.50 (clothbound), \$12.95 (paperback).

Proponents of the public goods argument hold that rational individuals cannot provide certain benefits for themselves. Public goods require collective effort and benefit individuals whether or not they themselves cooperate (p. 2). Because individuals need goods such as national defense, law and order, and protection from a hostile environment but have strong incentives not to bear the costs of providing them, coercive state provision can be justified.

Writing from a rational choice perspective, David Schmidtz argues that uncoordinated individual activity is an alternative to state intervention. He discusses the rise of property holdings in a Lockean state of nature (chapter 2), and a minimal state to protect them (chapter 3). He also presents noncoercive solutions to public goods problems modeled on the prisoner's dilemma (chapters 4 and 5), and supports his position with findings from research in experimental economics (chapter 6) and discussion of moral issues bearing on coercive provision of public goods (chapter 7).

Schmidtz's depiction of voluntary provision of public goods challenges the claim that there is no alternative to state provision. But his focus is limited. He does not discuss non-public-goods arguments (e.g., based on the need to promote equality) that could justify more extensive states (preface). Nor does he consider public goods justifications of political authority — and correlative obligations to obey — rooted in moral principles, such as gratitude or fair play.

The problem of property acquisition in a state of nature stems from the “Lockean proviso” that one must leave “enough and as good” for others. Because appropriation, especially of land, obviously diminishes what is left for others, many scholars view the problem as unsolvable. Schmidtz approaches the question through the “problem of the commons.” As described in Garrett Hardin's classic article, individuals have incentives to overuse common resources, and so to leave resources in the commons is to guarantee their destruction. Setting aside Hardin's proposal of “mutual coercion, mutually agreed upon,”<sup>1</sup> Schmidtz argues that this outcome can be avoided without coordinated coercion. Among the “others” whose welfare must be protected are future generations. Though A is enjoined to leave enough and as good for others, the only way he can make sure that anything at all will be left is by appropriating property, to protect it from overuse. The Lockean proviso, then, “not only permits original appropriation (which is a significant point in itself) but actually requires it” (p. 24). Schmidtz leaves open the possibility of limits to what one can appropriate (on which, more shortly) and possible requirements concerning distribution (p. 25), but his account shows how property can emerge without consent but without violating anyone's rights.

The rise of the state is motivated by the need to protect property. The style of argument here is familiar to readers of Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic Books, 1974). If we assume that individuals have rights to punish in the state of nature, the question is how the state can come to monopolize this function without their consent. Very briefly, according to Schmidtz, although B has a right to punish those who violate her rights, she does not have a right to impose unnecessary risks on innocent bystanders in the course of doing so. If the state is able to punish while subjecting bystanders to less risk, then B's right to punish no longer holds. This argument shows “how rights could be transferred from individuals to governments without individual consent but at the same time without violating individual rights” (p. 52).

The most sustained discussion concerns noncoercive solutions to public goods problems that have the classic prisoner's dilemma structure. In an

N-person prisoner's dilemma, A has an incentive not to comply with some cooperative scheme that provides a public good whether or not enough others will cooperate to provide the good. If sufficient others will not cooperate, then A's contribution would be wasted; if enough others will cooperate, then his is not necessary, and it would be in his interest to profit as a free rider. Schmitz's main innovation here is the "assurance contract," in essence a money-back guarantee. Such a contract would require unanimous contributions; it would be enforceable against any given contractor only if all other contractors cooperated. Because provision of the public good would depend on unanimous contributions, all would have incentives to comply.

The preceding is obviously only a sketch but should suggest some of the book's admirable features. The main arguments are original and provocative. Because Schmitz's presentation also combines great clarity and technical sophistication, *The Limits of Government* deserves a wide audience. But there is also much to criticize; in this brief space, I can only scratch the surface. Throughout the book, the lack of clear background discussion is sorely felt. For instance, in regard to the emergence of property, we are told that individuals must leave "enough and as good" for others. But Schmitz does not explain where the proviso comes from or why it holds. More important, he does not inquire whether the underlying moral considerations from which it stems limit appropriation in the state of nature for the sake of equal distribution. If punishment is justified to protect the fruits of one's labor, extensive coercive interference could be necessary to promote equality. But whether individuals have rights to equal distribution and whether these could be enforced without substantial state activity are questions not discussed.

The rise of the minimal state depends on its being the least risky punisher. But the crucial question of how risk is assessed is not explored. In Schmitz's scenario, the state demands that B cease punishing because it determines that she poses too great a risk to third parties. But it is not clear how the state has secured an exclusive right to make this determination. One reason why Locke requires consent is that each individual must cede the right to make such determinations; each agrees "to submit to the determination of the majority and to be concluded by it" (*Second Treatise*, Sec. 97). In the Lockean state of nature, such submission is of course necessary because individuals disagree. The judgment of each is influenced by self-interest; without neutral determination, conflict is inevitable. Even if Schmitz has shown that the emergent state has a right to stop individuals from punishing in risky ways, he has not explained where it gets the right to preempt their judgments concerning degrees of risk associated with different courses of punishment — or more important, in regard to specific occasions that justify punishment

and how much punishment they justify. Schmitz ignores the epistemic dimension of political authority. He simply assumes that risk can be assessed objectively and that state punishment is less risky than any individual's self-help.

As for the unanimous assurance contract, although Schmitz presents a theoretical solution to certain prisoner's dilemma problems, this has little bearing on questions of political justification. Certain public goods problems mirror N-person prisoner's dilemmas because general though not universal contribution is necessary. In these cases, A has an incentive to be one of the noncontributors. The group's demand that all contribute or none will contribute would give him enormous strategic leverage if he refused to accept the agreement. In addition, Schmitz recognizes the existence of "honest holdouts" who genuinely do not want the public goods in question at the prescribed price. Because he recognizes the difficulty of forcing such individuals to cooperate, he concedes that unanimity is not actually feasible. So what is to prevent A, who actually does want some good, from pretending to be an honest holdout? Schmitz argues that unless A contributed, crucial goods would not be provided. But even if there were a unanimity contract, in a large society in many cases the contribution or noncontribution of a single individual would be undetectable; literally no one would know whether or not A contributed.

It is possible that Schmitz would be able to counter these objections and others like them. But this would entail significant expansion of his book. In arguing from set premises, Schmitz demonstrates a flair. But for his book to bear significantly on questions of political justification, he would have to defend as well as argue from his assumptions. One leaves *The Limits of Government* desiring the hard argument concerning assumptions and connections between problems found in more traditional discussions, to which rational choice presents itself as an alternative.<sup>2</sup>

## NOTES

1. Garrett Hardin, "The Tragedy of the Commons," *Science* 162 (1968).
2. I am grateful to David Schmitz for comments and suggestions on an earlier draft.

—George Klosko  
University of Virginia