



Guest: Michael Huemer
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Michael Huemer is a professor of philosophy at the University of Colorado at Boulder, and the author of The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey.

WOODS: Your book *The Problem of Political Authority* breaks new ground in the way it attacks a very, very important question. And of course, it's a question that so often goes unexamined—well, thanks to John Simmons it goes slightly less unexamined—but you subject it to relentless scrutiny in this book. So, before we get into the details of your arguments and the different chapters, I want you to take a minute to explain to the audience the overall project that you're engaged in and how you go about it.

HUEMER: There's this question about the nature of political authority. Political authority is a kind of hypothetical, moral property that the state allegedly has, which gives it a kind of different moral status from all other agents. Political authority is supposed to explain why it is permissible for the state to do so many things that are not permissible for any other agent.

So if I have a charity that I want to collect money for, it's not considered permissible for me to collect it by force. I can't go out and extort people and threaten to imprison people if they don't contribute to my charity. Even if it's a really good charity. But the state is allowed to do that. So there is a philosophical question of why they should be allowed to do that and nobody else is. A theory of authority is supposed to explain things like that.

At the same time, it's supposed to explain why we should obey the state when we wouldn't have to obey anyone else. If somebody else tells you, don't take these drugs because they're bad for you, it's generally thought that you don't have to obey them, but most people think that you have to obey the state when they tell you not to take certain drugs.

WOODS: In other words, we sort of have come to accept that there's a double standard at work. That we all have to obey a certain moral code that we intuitively recognize. Yet we are willing to allow the state to get away with brazenly violating this all the time.

Now let me skip ahead to the very end of your book. I hate to give away the punchline for everybody, but I want them to know where you're headed. Where is this argument ultimately going to take you and the reader?

HUEMER: By the end of the book I have defended anarcho-capitalism. Basically, I think that we don't need a state.

The first half of the book is about why political authority is an illusion, that the state doesn't really have a different moral status from anyone else. The second half of the book is about how you could have a society that doesn't have a central authority structure and how it could work out okay.

WOODS: Now, as I said before we went on the air, I think I'd like to have you come back on another time and take on that section of the book. I've had Gary Chartier on in the past; I've had David Friedman. The program is no stranger to these topics. But you have a very good take on it and I want people to be exposed to it.

Let me just say in parentheses, though, I wonder what you would have to say to Bryan Caplan's criticism. He

loves your book, but his criticism is that it's too abrupt. On the one hand, maybe people are willing to accept that your arguments against political authority are sound, but then pushing them right away into the deep end of anarcho-capitalism maybe is too abrupt. Maybe you needed to make the more moderate case first and then say, "Oh, and by the way, security services and legal services can be provided, too."

What do you think about that?

HUEMER: Yeah, well, maybe. Bryan's main criticism of my book is that there's sort of not enough of it.

WOODS: That's not a bad criticism.

HUEMER: I mean, the first half the book is supposed to get you to moderate libertarianism like the minimal state. The second half of the book is supposed to get you the rest of the way. So, if you only read the first half of the book you wouldn't be shocked—well, actually, most people would be shocked.

WOODS: Right, right.

HUEMER: But ordinary libertarians would not be shocked because the result of there not being political authority is not that you have to immediately abolish the state and all of its functions. The result is that the state simply has to operate by the same rules as everyone else. So, if you only read the first half of the book the result is that the state shouldn't interfere with any behavior that it would not be permissible for a non-state agent to interfere with.

WOODS: All right, so that really brings us to one of the key points of your book, which is that you're not going to spend time focused on the traditional libertarian approach of talking about the nonaggression principle and applying it in various situations, but rather a kind of—now forgive me as a non-philosopher if I'm using terms incorrectly—maybe a kind of moral intuitionism. The idea that there are some moral principles that, at least on a basic level, seem to be shared by almost everybody and if we can appeal to those—the same way that Robert Nozick, in *Anarchy, State, and Utopia* appeals to the idea that forced labor is wrong. I don't need to draw you a diagram about that. If I can show you that what the state is doing is akin to forced labor then I've made my case. Is that the kind of angle you're taking?

HUEMER: My approach is a little more concrete and specific than most libertarian arguments. I'm not claiming to have a general moral theory that tells you when any action is permissible or not. Many libertarians rely on this nonaggression principle as a kind of universal axiom. What I'm doing is relying upon judgments of what people would make in a concrete situation.

So, if I go to my neighbor next door and I bring my gun there and I demand that he contribute a certain amount of money to my charity, almost everyone will agree that that's wrong. We might not agree about why that's wrong, right? There are different moral principles that somebody could advance to explain why that's wrong, but almost everyone agrees that I can't do that. And then the strategy of argument is to just show that there's an analogy between that and something that the state is doing, namely taxation. I don't have to give a complete moral theory, and I think this is an advantage of the approach.

WOODS: Well, let's start going through some of the beginning of the book, because there, when you're talking about social contract theory, although you're talking about it the way a philosopher would, these are arguments that a lay audience will find familiar. They are objections that on a lower level the average libertarian encounters all the time on Facebook and with friends and family. And the way you would boil it down in the way you would see it in ordinary conversation would be: you obviously benefit from the state; if you don't like it here you might as well leave, but the fact that you're here and you're enjoying the benefits indicates that you have implicitly or tacitly consented.

We're all familiar with this sort of argument. It always struck me that this is one of the weakest arguments I think I've ever heard on behalf of anything, and yet it has such purchase on the public mind. How do you respond to it?

HUEMER: Going with the analogy strategy, right? Let's say that the mafia has taken control of your neighborhood, right, and they're extorting money from you and you say to the mafia boss, "Please, stop

extorting money from me; this is wrong.”

And the mafia boss says, “Well, you live in this neighborhood, we control the neighborhood and you live here so you’re agreeing to have us extort money from you.”

If somebody actually owned the neighborhood legitimately—they had acquired a property right by one of the accepted, legitimate methods—and then they said, “If you move in here then you have to do this,” and then you signed a contract and moved in, then they’d have an argument that they can do whatever the contract said they can do. But, what you can’t do is go to somebody who’s living on their own property, which they own, and tell them that they have to move out of their property if they don’t agree to your terms, right? You don’t have the right to set terms on other people’s use of their own property.

WOODS: Yeah, that’s the key thing. I’ve had somebody raise an objection: if there were, somewhere in the world, a libertarian society—Somalia is the one that’s always thrown at us—but if there were a place without a state, we as libertarians would be morally obligated to move there. But I don’t see why we would because, as you say, if I own this property, I get to establish the rules on my property. For somebody else to come along and start badgering me—that person is the bully. Why would the bully have the moral benefit of the doubt?

HUEMER: You might say: no, the state should leave.

WOODS: Yeah, that’s exactly my thought!

HUEMER: I and the state are not in agreement with each other; why don’t they leave the territory?

WOODS: That argument has never worked, however, in practice. In terms of strict logic of it, I don’t see what the problem is.

Now, you’re also talking in the book about a hypothetical social contract, I suppose talking about the veil of ignorance, the original position, the sort of thing that John Rawls might have advanced. Can you talk about that a little bit?

HUEMER: After philosophers figured out that there is no actual social contract—nobody actually agreed to it—then they moved to: well, maybe you would have in some hypothetical scenario. It’s a little hard to see how that’s supposed to give any moral force.

Here’s an example. Let’s say you’re a doctor in a hospital and an accident victim has just been brought in. The accident victim needs immediate medical care; however, he is unconscious. Now, normally you need somebody’s consent in order to give them medical care, but you can’t get this person’s consent, so what do you do? And the answer is you give them medical care anyway. And the rationale is, it’s reasonable to assume that they would consent if they were able. Because most people would consent, and it’s really genuinely necessary and so on. There is the efficacy of hypothetical consent.

This isn’t going to work for the state and the social contract. It’s not going to work for the state to say, “Well, you would have consented to have us.”

First of all, in the case of the unconscious accident victim, it’s actually important that the victim is unconscious, because if the victim is conscious you have to ask them. You can’t just say, “Well, you would have consented, if I had asked you, right?”

Citizens of modern governments are not all unconscious. The government could ask them if they consent. The government chooses not to ask them because they’re afraid of what their response would be.

WOODS: Yeah, there you go.

HUEMER: The consequence with you saying, “No, I don’t agree,” would be that that you would have zero tax liability, then quite a lot of people would say, “No, I don’t agree.” Then they would get a complete tax refund, right?

The other problem with the hypothetical consent theory is that when the philosopher argues that you

would consent, they do that with a counterfactual assumption that your beliefs and values are different than what they actually are. Because there are certain people, namely like most libertarians, who would not consent. Or, at least, would not consent if they knew what the government was going to be like. So in order to make the argument that hypothetically we would consent to the state, you have to either ignore the libertarians or hypothetically assume that the libertarians had different beliefs than what they actually had. This doesn't really work. The appeal to hypothetical consent should be based upon the person's actual beliefs and philosophical values.

WOODS: Speaking of ignoring the libertarians, it's interesting that John Rawls during his public life, his life as a professor, seemed quite willing to engage people who disagreed with him from let's say a more left-wing perspective. I don't know if he ever interacted with G.A. Cohen, the Marxist philosopher, but people like that he was at least willing to talk to. Whereas you don't see a full-fledged response to a libertarian critique of Rawls.

Now can you about what was Rawls doing? What was wrong with his whole approach? There does seem to be a superficial plausibility to it. If I were behind a veil of ignorance and I didn't know if I was going to be male or female, or rich or poor, or black or white, or talented or untalented, maybe I would say, "Since I might end up being the lowest of the low, then the rule I would want governing society is that we should be as equal as possible, so that even if I am the lowest of the low, I won't be so low."

What's the problem there? Because, as I say, there seems to be some superficial plausibility to it.

HUEMER: Yeah, interesting. So, here's another hypothetical: Let's say that there is a lottery and there's one particular ticket that if you have it you get a million dollars, and then the other tickets are all worth nothing. So I bought this lottery ticket. Suppose that I've just found out that it's the winner and is worth a million dollars. And then you come up to me and you say, "Mike, you paid three dollars for this lottery ticket. If you didn't know it was a winner you'd be happy to sell it to me for \$10, right? So, you should sell it to me for \$10."

Wrong. Now if I didn't know that it was a winner I'd sell it for \$10, but that's completely irrelevant once I do know. And once I do know that it's a winner, of course I'm not going to sell it. There's no argument from justice that I'm morally obligated to sell it to you, right? No, I'm not obligated to sell it—it's not unjust for me to keep it.

This is kind of analogous: if I'm in society and I found out that I'm one of the winners, so to speak—that is, wealthy, I have talents that are socially valuable, I'm in a good position—it might be true that I would have agreed to a massive wealth redistribution if I didn't know I was going to be one of the winners, but that doesn't mean that in actual fact I should or that I'm obligated to agree to the wealth distribution once I know that I'm one of the winners.

WOODS: But, they could say to you that the talent you have—it could be a talent you have to work to cultivate—but even the very fact that you have this work ethic is also something that is unmerited and undeserved. You don't deserve it. Surely you should, as a morally reasonable person, want to share the fruits of it with people who don't have this beneficial endowment.

HUEMER: Yeah, yeah. Also irrelevant, right?

It's a controversial claim that you don't deserve your talents, right? You don't deserve the talents that you worked to cultivate, that's controversial, but it's irrelevant because you could take the clearest case of something that I don't deserve and I'm still not obligated to compensate other people. That's why the lottery example is good, because the fact that I won the lottery is just the clearest case of random fortune, right? Clearly I didn't deserve to win the lottery. It was just good luck. But I'm still not obligated to give away the money, right? So when you come to the controversial case where maybe my talents are a matter of luck or maybe I'm responsible for them, maybe not, even more clearly I'm not obligated to give away the fruits, the results from that, right?

WOODS: But, I wonder: what would Rawls say about a lottery ticket? Would he say that to some degree the

difference principle requires that you give away at least some of that money?

HUEMER: Well, in fact you do have to give away some of it in taxes. Not sure what he would say. Should the state take away all of the lottery money? But, of course, that would just defeat the purpose of having a lottery. I think that Rawls's response to most of my hypotheticals would be: "Well, my philosophical principles only apply to the general political structure of society and they don't apply to cases involving individual people. So, if there's only two people my principles don't apply, so you can't use an analogy."

WOODS: Okay, okay. And he also said the same sort of thing when you're dealing with one country versus another: that he's not willing to apply the difference principle when you're dealing with the Democratic Republic of the Congo and the United States. It seems to be morally arbitrary—although Thomas Nagel tries to rescue him from that—but that's getting is a little off-topic.

Let me ask you about an objection I think a lot of American schoolchildren might have to what you're saying. And that would be: we live in a democratic society and we all collectively decided that people should be able to get a chunk of the fruits of your talents, or your lottery winnings, or whatever. We all freely decided that and you're part of that. You had your equal say and it just came out the other way. There's nothing wrong with that.

HUEMER: Well, usually the mere fact that a larger number of people wants to do something than the number of people that are opposed to it, doesn't mean that they have the right to do it, right? So, if there's some behavior that would normally violate somebody's rights it doesn't cease to be a rights violation just because more people support than oppose it.

For example, I go for drinks with some of my friends and at the end, after we've all run up a big tab and the question arises about who's going to pay for it, suppose the majority of my friends vote that I should pay for everyone and I'm the only one who disagrees? Five people want me to pay for everyone, only I don't want to pay for everyone. Am I obligated to pay for everyone? No.

Are they ethically entitled to force me to pay for everyone? No.

So it's really unclear how the appeal to the opinion of the majority makes any difference, right? It could just be a few dollars and they still don't have the right to take my money, right? So it looks like majority will has very little moral force.

WOODS: People treat it, though, with a religious reverence. There are almost religious trappings around the process of voting—it's like a sacrament for some people. And yet, as you say, when you look at it closely what is it supposed to mean that more people want to do something than don't want to do it? Well, there *are* a lot of moral outrages that have occurred over the centuries that many more people wanted to engage in or connive at than not.

HUEMER: Right, so sometimes the majority is right, sometimes they're wrong, but the fact that the majority of people support something isn't very strong evidence that it is right. The fact that a narrow majority of people want drugs to be illegal really shouldn't change my mind to make me think, "Oh yeah, I guess drug use is really wrong."

WOODS: Let me jump in with what will probably be my last question as we wrap up here. I guess the answer to this question really requires the second part of your book, which is the discussion of the stateless society, how it would work, and answering objections that a lot of people maybe have, but I think a lot of people think so little about anarchism that they're not even really sure what the objections are. They just know that it would be crazy, and people would be getting shot all the time and all that, and you take that objection on pretty well. But the key objection, I think a lot of people ultimately have – once you've broken down all these other objections –that would remain with them is: even if I accept that what you're saying is right, that the state doesn't have a moral leg to stand on, if it turns out that the only way for civilized life to be possible is under the authority of the state, then you can take your highfalutin philosophical arguments and go take a hike because we need the state to make civilized life possible.

HUEMER: As you say, the second half of the book deals with the question of whether you really need the

state to make civilized life possible. Of course, the answer turns out to be no, but that's a long story. But even if you didn't buy the second half of the book there are still significant consequences of rejecting political authority. If you think that there's going to be some big disaster if we don't have the state, then we don't have to abolish the state, but still the state would have to be much more limited than most states in fact are.

So if the state is necessary to prevent constant violence then it's permissible for the state to do the minimum activities necessary to prevent that violence. But it's not permissible for them to go on and do all these other things: regulating drug use, having a space program, support for the arts, all of these programs that are not actually necessary for that central function.

WOODS: Now Michael, looking over your c.v. you have written in a wide variety of areas in philosophy, and now with this book you've gotten a lot of attention from libertarians. I suppose in your previous books you did not get an invitation to speak at PorcFest, so this is an unusual thing. Do you intend to carry on developing this theme or do you have other interests in philosophy that are going to take you elsewhere in the future?

HUEMER: You know, I don't know what I'm going to work on, because I just find something interesting and start doing it. I find new things every year. Certainly, I'll do some more political philosophy things, some applied ethics, more epistemology also. I have a paper that I'm working on now about legal ethics, about why it's permissible for a lawyer to defend someone that he knows is guilty and questions surrounding that.