Hosai Kishida | Philosophy |2023 |1st place

Is tax theft?

Introduction

Theft is the taking someone's property without their consent. If the property is returned almost immediately, that is not theft only if the property has kept its value. Consider the non-consensual taking of someone's wallet. if the robber gave back the wallet, but took a few objects from it, that would still constitute theft.

Under Locke's "social contract" taxation might seem to be something citizens consent to. Given that taxation funds government functions, an individual who rationally wants to access these functions of the state must also consent to the existence of taxation. This essay accepts the "rational consent" framework but argues that a rational person would not consent to the existence of the state. And that taxation also cannot be justified by the government returning goods and services more valuable than the money they took in taxation.

Rational consent as a justification of state power

As Locke asserts, all humans were born equal in the sense that there is no natural hierarchy dictating that one individual should have power and privilege over anybody else in a society. Such power can be legitimatized only by the consent of the subordinated individuals. Taxation is an exercise of state power, whose legitimacy therefore requires the taxed individuals to have consented to the state's exercise of power. Without such consent, it is an unconsented taking, and hence a case of theft.

Individuals did not enter into any literal "social contract" in which they agreed to submit to state power. But, if it would be rational to do so, that may be enough to justify state power. Like Locke (1689), Kant (17XX) argues that individuals need a state to create "general laws for their survival" even though it may impede some of their freedom. Without a state, according to Locke and Kant, we would be too vulnerable to the those who use force against us and violate our natural rights. In application to taxation, this would mean that a rational person would seek the provision of certain state functions and, for these functions to be fulfilled, taxation is necessary.

The first issue with this justification of the state lies in Kant's presentation of anarchy. Kant asserts that the state is the only actor that can protect citizen's rights. This relies on an antagonistic view of anarchy. Assuming that anarchy emerges out of modern society, the modern division of labour could still exist, with the only difference being that there would be a privatization of the enforcement of justice. Individuals would hire private security agencies, such as the ones that already exist today, to protect them. As these agencies are private, they have an incentive to ensure that there would be a peaceful society, as the outbreak of conflict would only reduce their profits. David Friedman (197X) posits that in an anarchical society, these privatized approaches to order would eventually build a set of commonly agreed-upon laws that would justly arbitrate conflicts between individuals.

So, the state is not necessary for arbitrating and mediating conflicts between individuals. It is also unclear how effective governments are at stopping natural rights violations. Kant frames the state as a neutral umpire which constrains the misbehaviour of private individuals. In fact, the state is controlled by irrational individuals with their own private incentives and goals. Historically, states have committed countless atrocities against individuals, such as the Holocaust under Nazi Germany. Huemer (2013) argues that the state is a body comprised of individuals all with their own unique biases and opinions, and therefore, the neutral perfect state cannot exist.

Kant's justification of the state compares the worst forms of anarchy with an idealized version of the state. Given more realistic views of anarchy and of the state, a rational person would not consent to state power. This means that taxation is an unconsented taking of an individual's property and, therefore, theft.

Taxation and hypothetical returns

A defender of tax might reply that it is not theft because the value of the government's spending on public goods and services is greater than the value of the money originally taken. Public goods and services are non-excludable and non-rivalrous goods. This means that the consumption of the good by one person does not reduce its value to anyone else who seeks to use it, and no one can be prevented from using it. The state uses taxes to provide public goods and services such as national defence, whose benefits can be accessed by all members of the society.

The most convincing justification for taxation comes from the idea that, absent the government, individuals would have no incentive to contribute to the development of public goods which society in a consensus deems as valuable. Consider a scenario in which there was a town with a river running through it that had a high probability of overflowing and destroying everyone's homes. The leaders of the town suggest that everyone chip in to pay for a dyke to be built. Inevitably, some members of the community will not contribute to because they figure that their marginal contribution means very little and it they can rely on others to pay for it. If enough try to "free ride" on the rest of the community, the dyke won't get built.

Olsen (19XX) explains that taxation can solve this "collective action problem", ensuring that there is a just contribution of every member of society in the building of shared public goods. Taxation would be justified in this scenario because it asks members of the town to chip in a little to build a dyke that protects their much more valuable house. Under this imagination of the government, a rational person would consent to taxation.

The immediate issue with the collective action justification of taxation is its neglect of how private models can create public goods just as well as taxes can. Take the dyke again. Why assume that, without taxes, the dyke won't get built. It would be perfectly feasible for individuals within the society to purchase housing insurance from a private corporation, which would then have the incentive to build a hypothetical dike as the collective destruction of all their client's homes would incur massive economic losses for them. Each community member's private incentive to insure his own house, where free riding is impossible, can fund the construction of the dyke. If the privatization of public goods is generally feasible (Friedman 1978) taxation is not necessary for public goods.

Another issue with the justification of taxation through collective action is its idealization of how the state functions. It assumes that governments only provide public goods that are generally considered of higher value than the taxes collected. Empirically speaking, outside of broad social goods that individuals would reasonably view as worth more than the taxes that pay for them (such as the dyke), the government also provides goods that are not valued equally by all groups or individuals.

Say an individual supports open borders and the free movement of people but the government enforces border control with taxpayers' money. He is forced to pay for something he objects to.

This issue would not arise if the goods were supplied privately and individuals were not forced to pay for those services they deem of less valuable than what was originally taken in tax. As Nozick (1974) argues, the state cannot accommodate the preferences of the individuals that live under it. This means that government-supplied goods will be of less value to these individuals than what is initially taken from them by the state. The state is returning to them something less valuable than what was taken. So tax is theft.

References

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